

Title 9

PUBLIC PEACE, MORALS AND WELFARE

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## **I. OFFENSES AGAINST OFFICERS AND GOVERNMENT**

### **Chapter 9.04**

### **FALSE ALARMS\***

#### **Sections:**

- 9.04.010 False alarm--Prosecution.**
- 9.04.020 False fire or police warning--Prosecution.**
- 9.04.030 Enforcing penalty.**
- 9.04.040 Charges for false alarms.**

**9.04.010 False alarm--Prosecution.** Any person who wilfully gives or makes a false alarm of fire, or who employs any bellman, or uses or causes to be sounded any bell, horn or bugle or other sounding instrument, or who employs any device, noise or performance tending in either case to the collection of persons on the streets, sidewalks or other public places, to the obstruction of the same, for any purpose whatsoever, shall be subject to a fine not exceeding twenty-five dollars besides the costs of prosecution. (Prior code §20.07).

**9.04.020 False fire or police warning--Prosecution.** No person shall wilfully use or employ in the city any bell, whistle, horn, sounding instrument or alarm or any device, noise or performance tending to imitate or imitating any bell, whistle, horn, sounding instrument or alarm of any device, noise or performance, used by the police department or fire department of the city in the performance of the duties of such departments or either thereof, and any person violating the provisions of this section shall be subject to a fine not exceeding twenty-five dollars besides costs of prosecution. (Prior code §20.08).

**9.04.030 Enforcing penalty.** Any person in default of payment of forfeitures and costs of prosecution fixed in Sections 9.04.010 and 9.04.020, inclusive shall be imprisoned in the county jail of Eau Claire County for not more than thirty days. (Prior code §20.09(part)).

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\* For provisions of general charter law authorizing cities to act for the health, safety and welfare of the public, see WSA 62.11(5)).

**9.04.040 Charges for false alarms.** A. "False alarm" means an alarm signal which elicits a response by the police when a situation requiring a response by the police does not in fact exist.

B. Any person having a burglar, hold-up or any type of intrusion alarm shall be charged a fee as stated in the City of Eau Claire Fees and Licenses Schedule for the indicated number of false alarms responded to by the police department within a calendar year.

C. If the possessor of the alarm shows to the satisfaction of the chief of police that such false alarm was not the result of negligence or improper maintenance, or other good and sufficient cause beyond the reasonable control of the possessor of the alarm, such fee may be waived and the response shall not count as a false alarm in computing the fee established under subsection B. (Ord. 6363 §28, 2002; Ord. 6235 §1, 2001; Ord. 4343, 1983).

## **Chapter 9.08**

### **ENFORCEMENT\***

#### **Sections:**

**9.08.010 Failure to enforce.**

**9.08.020 Refusal to assist officer.**

**9.08.030 Illegal premises--Right of entry.**

**9.08.010 Failure to enforce.** If the chief of police or any police officer of the city neglects to perform any duty required by him by this title, he shall pay a fine of not less than three nor more than fifty dollars, together with costs of prosecution. (Prior code §20.04).

**9.08.020 Refusal to assist officer.** Any person who refuses to assist any officer in arresting any person for any offense under this title, whenever called upon by an officer for assistance, shall, upon conviction thereof, pay a fine of not less than one nor more than twenty dollars, or if any person resists any officer, or counsels resistance to any officer in the discharge of his duties under this title, such person shall be subject to a like penalty. (Prior code §20.05).

**9.08.030 Illegal premises--Right of entry.** If the owner or keeper or any person within any gambling house or room, any disorderly house, or any house of ill fame within this city refuses to permit the city manager, any alderman, the chief of police or any policeman to enter the same, it shall be lawful for either of said officers to enter, or cause the same to be entered by force, by breaking the doors or otherwise and arrest with or without warrant the suspicious persons found therein. (Prior code §20.21).

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\* For statutory provisions punishing misconduct in office or de facto office, see WSA 946.12 and 946.18; for statutory provisions punishing refusal to aid an officer, see WSA 946.40; for provisions punishing impersonation of officers, see WSA 946.69 and 946.70.

**Chapter 9.10**

**PRIVATE ALARM SYSTEMS**

**Sections:**

**9.10.010 Purpose.**

**9.10.020 Definitions.**

**9.10.030 Devices prohibited.**

**9.10.040 Private alarm systems.**

**9.10.050 Exception.**

**9.10.060 Penalty.**

**9.10.010 Purpose.** The purpose of this chapter is to establish control of the various types of intrusion, holdup, fire extinguishment, smoke detection and other emergency signals from telephone or electronic devices that would require police or fire response, investigation and safeguarding of property at the location of an event reported by a signal which is transmitted by telephone or radio, or which is otherwise relayed to the emergency communications center by an alarm device requiring investigation or other action by any person acting in response to a signal actuated by an alarm device, including such devices already in use within the city. (Ord. 3849 (part), 1978).

**9.10.020 Definitions.** For the purpose of this chapter:

A. "Central alarm station" means any facility operated by a business that owns or leases a system of police or fire alarm devices, which facility is manned by operators who receive, record or validate alarm signals and relay information about such validated signals to the police department or fire department when appropriate.

B. "Emergency communications center" means the communications center located within the police department headquarters which handles the emergency phone calls and radio communications for the police and fire departments.

C. "Fire department" means the city fire headquarters and other locations housing privately or publicly owned equipment serving the fire department.

D. "Police department" means the city police headquarters and other locations housing privately or publicly owned equipment serving the police department.

E. "Premises or local alarm" means any alarm which produces an audible or visible signal designated to notify persons within audible or visual range of the signal.

F. "Private alarm system" means any system which, when actuated by an unlawful act, fire or other emergency requiring police or fire department response, transmits a prerecorded message or other signal by telephone, radio or other means to a central alarm station.

G. "Telephone or electronic device" means any device which is a telephone device or telephone attachment, that automatically or electronically selects a telephone line connected to a central alarm station. (Ord. 3849 (part), 1978).

**9.10.030 Devices prohibited.** A. No person shall use, or cause or permit to be used, any telephone or electronic device or attachment that automatically selects a public primary telephone trunk line of the police department, fire department or emergency communications center and then reproduces any prerecorded message to report any unlawful act, fire or other emergency.

B. This section shall not apply to security systems required under government contract where no government-approved private alarm system, required under said contract, is readily available, in the judgment of the chief of police, to provide such a security system. The type and manner of direct

connection of said system with the police department shall be subject to the review and approval of the chief of police. If, at any time after such direct connection to the police department, a government-approved private alarm system becomes available which can reasonably replace such direct connected system, the chief of police may require the disconnection of the system. (Ord. 4559, 1985; Ord. 3849 (part), 1978).

**9.10.040 Private alarm systems.** Any person owning, leasing or operating a private alarm system shall also monitor such service at all times during the hours that such a system is in operation and inform the emergency communications center of alarms transmitted to the central alarm station. (Ord. 3849 (part), 1978).

**9.10.050 Exception.** None of the provisions of this chapter shall apply to any official governmental body or subdivision thereof which owns, operates and maintains its own alarm equipment. (Ord. 3849 (part), 1978).

**9.10.060 Penalty.** Any person who violates any provision of this chapter shall be subject to forfeiture in an amount not exceeding two hundred fifty dollars for each offense. Each day during which a violation continues shall be deemed to be a separate offense. (Ord. 3849 (part), 1978).

## II. OFFENSES AGAINST THE PERSON

### Chapter 9.12

#### ASSAULT AND BATTERY\*

#### Sections:

##### **9.12.010 Prohibited--Punishment.**

**9.12.010 Prohibited--Punishment.** Any person who commits an assault and battery upon another within the limits of the city shall, upon conviction thereof, be punished by a fine not exceeding one hundred dollars nor less than one dollar, together with the costs of prosecution; and in default of payment of such fine and costs, shall be imprisoned in the county jail until said fine and costs are paid, but not to exceed three months. (Prior code §20.12).

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\* For statutory provisions punishing aggravated battery, see WSA 940.19.

**Chapter 9.16**

**FAIR HOUSING\***

**Sections:**

**9.16.010 Definitions.**

**9.16.020 Purpose.**

**9.16.030 Prohibited acts.**

**9.16.040 Exemptions.**

**9.16.050 Requiring references permitted.**

**9.16.060 Violation--Penalty.**

**9.16.010 Definitions.** A. "Accommodation" includes any room, apartment, house, building or structure, any part of which is used for human habitation on a temporary or permanent basis.

B. "Discriminate", "discrimination", and "discriminating" refer to any type of act or refusal to act prohibited by this chapter which is based to any degree on a consideration by the actor of the race, color, religion, ancestry, national origin or sex of another person.

C. "Housing" includes any part of any building, structure or land, whether or not vacant.

D. "Handicap" means any physical disability or developmental disability as defined under s. 51.01(5)(a) of the Wis. Statutes. (Ord. 4247 §1, 1982; Ord. 3634 (part), 1976; prior code §23.60(7)).

**9.16.020 Purpose.** It is declared to be the policy of the city pursuant to the United States and Wisconsin Constitutions and also its power to protect the public health, safety, and general welfare, that all persons, regardless of sex, race, color, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry are entitled to fair and equal access to housing; and to that end the city enacts the following provisions, which prohibit any person not herein exempted from discriminating against any other person by impairing, to any degree, access to any housing or housing accommodations on the basis of sex, race, color, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry. (Ord. 4247, 1982; Ord. 3634 (part), 1976; prior code §23.60(1)).

**9.16.030 Prohibited acts.** A. Except as otherwise exempted in this chapter, it is prohibited discriminatory practice for any person to:

1. Print, publish, circulate, issue, display, post, mail or communicate in any other way any announcement, statement, advertisement, publication or sign, the import of which indicates to any degree a decision or purpose to impair in any way the access of any person on the basis of his sex, race, color, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry, to any transferable interest in any housing or housing accommodations;

2. Refuse to sell, lease, sublease, rent or in any other manner, deny, withhold or impair the transfer of title, leasehold or any other interest in any part of any housing or housing accommodation, when such refusal is based to any degree on a consideration of sex, race, color, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry of the person refused;

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\* For statutory provisions regarding fair housing policies, see WSA 66.40(2m).

3. Refuse to lend money or security, guarantee any loan, accept any mortgage or in any other manner make available any other funds or resources for the construction, acquisition, purchase, rehabilitation, repair or maintenance of any housing or housing accommodation, when such refusal is based to any degree on a consideration of the sex, race, color, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry of the person refused; or

4. Refuse to furnish any facilities or services for any housing or housing accommodation, whether ordinarily provided pursuant to legal duty or local custom, when such refusal is based to any degree on a consideration of the sex, race, color, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry of the person refused.

B. It is unlawful for any person to do or refuse to do any act which to any degree effects the purpose of any activity prohibited by this chapter. (Ord. 4247, 1982; Ord. 3634 (part), 1976; prior code §23.60(2)).

**9.16.040 Exemptions.** A. Nothing in this chapter shall bar any religious or denominational institution or organization, or any charitable or educational organization which is operated, supervised or controlled by or in connection with a religious organization from limiting admission to or giving preference to persons of the same religion or denomination, or from making such selection as is reasonably calculated by such organization to promote the religious principles for which it is established or maintained. (Ord. 4247 §4, 1982; prior code §2.360(3)).

**9.16.050 Requiring references permitted.** Nothing in this chapter shall be deemed to prohibit an owner, or his agent, from requiring that any person who seeks to buy, rent or lease housing supply information concerning his family, marital, financial and business status but not covering race, color, physical condition, developmental disability, as defined in Wis. Stats. s. 51.01(c), or creed. (Ord. 4247 §6, 1982; prior code §23.60(5)).

**9.16.060 Violation--Penalty.** Any person who wilfully violates this chapter shall, for each such violation, forfeit not less than twenty-five dollars nor more than two hundred dollars. Each day such violation continues shall constitute a separate offense. Payment of any such forfeiture shall be stayed during the period in which any appeal may be taken and during the pendency of any appeal. (Ord. 4247 §7, 1982; prior code §23.60(6)).

### III. OFFENSES AGAINST HEALTH AND SAFETY

#### **Chapter 9.20**

#### **ABANDONED REFRIGERATORS\***

#### **Sections:**

**9.20.010 Doors and latches removed.**

**9.20.020 Violation--Penalty.**

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\* For statutory provisions regarding "miscellaneous health provisions", see WSA 146.

**9.20.010 Doors and latches removed.** A. No person, firm or corporation as the owner, lessee or manager shall abandon, discard, store or keep in any place or premises under his control, which is accessible to children, a refrigerator, icebox, freezer cabinet or other container of a capacity of one and one-half cubic feet or more, which is no longer used for refrigeration purposes, without the attached doors, lids, covers, hinges or latches removed.

B. The provisions of subsection A shall apply to the removal of said articles to any other place or premises for the purpose of dumping or discarding the same. (Prior code §20.46(a), (b)).

**9.20.020 Penalty.** Any person, firm or corporation violating provisions of Section 9.20.010 shall, upon conviction thereof, forfeit not more than one hundred dollars and costs of prosecution and upon failure to pay the same shall be confined to the county jail for not more than thirty days. (Prior code §20.46(c)).

## **Chapter 9.24**

### **BOATING REGULATIONS**

#### **Sections:**

**9.24.010 Purpose.**

**9.24.020 Half Moon Lake--Water skiing.**

**9.24.030 Half Moon Lake--Motor boats.**

**9.24.040 Water ski exhibitions--Permits.**

**9.24.050 Bulkhead lines.**

**9.24.060 Chippewa River--Placement of buoys and markers.**

**9.24.070 Half Moon Lake--Placement of buoys.**

**9.24.080 Violations--Penalties.**

**9.24.090 Severability.**

**9.24.010 Purpose.** The city council is cognizant of the need to prescribe rules and regulations for the operation of motor-propelled boats on the waters within the corporate limits of the city, so as to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public rights and interests, and the capability of the water resources. (Ord. 5744 §1, 1997).

**9.24.020 Half Moon Lake - Water skiing.** A. The city council declares that because of the relative narrowness of Half Moon Lake and because of the extensive and varied recreational uses made of the lake by great numbers of persons of all ages for swimming, wading, boating, canoeing, fishing, picnicking on the banks and the like, water skiing, aquaplaning, surf board riding, and similar activities performed by means of towing behind a motor-propelled boat, are detrimental to the public health and safety and are therefore prohibited on said lake as hereinafter set forth, except as hereinafter otherwise provided.

B. In the interests of public health and safety, no person shall operate a motor boat on any part of the waters of Half Moon Lake in the city while such boat is towing any person or persons on water ski or skis, aquaplane, surf board or similar device; nor shall any person engage in water skiing, surf board riding, aquaplaning or similar activity while being towed by a motor boat on any part of Half Moon Lake, except as hereinafter otherwise provided. (Ord. 5744 §1, 1997).

**9.24.030 Half Moon Lake - Motor boats.** A. No boats powered by an internal combustion engine shall be operated on Half Moon Lake without prior authorization from the city council.

B. Within the Braun's Bay portion of Half Moon Lake, no boat shall be propelled by any internal combustion, electric, or other type of engine. Braun's Bay is the portion of Half Moon Lake located south and east of a line commencing at Latitude 44°48'12.28", Longitude 91° 31'36.36"; thence northwesterly to Latitude 44°48'21.56", Longitude 91°31'37.01"; thence northeasterly to Latitude 44°48'27.08", Longitude 91° 31' 30.53"; and west of Carson Park Drive. (Ord. 6560, 2004; Ord. 5744 §1, 1997).



**9.24.040 Water ski exhibitions--Permits.** A. The city council may grant permits to persons or associations for the legitimate purpose of practicing for and presenting water ski exhibitions or races to the public. Permits shall be valid for three (3) years unless revoked by action of the city council before that time for violation of the terms of this chapter or any associated lease.

B. Permits granted by the city council shall designate the location, time, and activities allowed, and shall be at the site when any practice, exhibition, or race takes place, and further shall be available for inspection upon request by an appropriate state or local representative.

C. Permits granted hereunder shall serve as exemptions to the various limitations against water skiing and motorboat use as contained in ss. 30.61(2), 30.66, and 30.69(3)(a) to (c), Wis. Stats., and ss. 9.24.020, 9.24.030, and 9.24.060 of this chapter, as amended and renumbered. (Ord. 6525 §1, 2004; Ord. 5744 §1, 1997).

**9.24.050 Bulkhead lines.** Bulkhead lines for the Chippewa River shall be as follows:

Commencing at SE corner of Section 7; thence due west along the south line of Section 7 a distance of 441 feet; thence N. 26° W. a distance of 93 feet to the point of beginning, said point being a point on the shore of Dells Pond; thence S. 26° E. a distance of 93 feet, said line being 24 feet from and parallel to Building No. 11, Brown Company Paper Mill; thence S. 10° W. a distance of 52 feet; thence S. 26° a distance of 114 feet to a point on the shore of Dells Pond and there terminating, said line being 24 feet from and parallel to Building No. 11, Brown Company Paper Mill.

Whereas the city of Eau Claire, Eau Claire and Chippewa Counties, Wisconsin, by and through its city council, proposes to establish in the interest of the public and pursuant to Section 30.11, Wisconsin Statutes, a new bulkhead line along a part of the shore of Half Moon Lake, Eau Claire County, as hereinafter described, and does ordain as follows:

That the bulkhead line of that part of the south shore of Half Moon Lake, hereinafter described and more particularly shown by a map filed in the office of the city clerk of Eau Claire, the office of the register of deeds for Eau Claire County and the office of the Wisconsin Department of Natural Resources, is established and determined as set forth in the following description and said map, subject to the approval of the Wisconsin Department of Natural Resources, namely:

Half Moon Lake Bulkhead Line located in the SW 1/4 of the SW 1/4, Section 19, Township 27 North, Range 9 West, and in the SE 1/4 of the SE 1/4 of Section 24, Township 27 North, Range 10 West, city of Eau Claire, Eau Claire County, Wisconsin, which are lying north and east of the following described line:

Commencing at the Southwest corner of said Section 19; thence N. 1°08' E. 100.10 feet to the north line of Menomonie Street; thence N. 79°25' E. along said north line of Menomonie Street 578.5 feet to the west line of Carson Park Drive; thence N. 5°10' W. along said west line of Carson Park Drive 336.8 feet; thence N. 0°20' W. 116.18 feet; thence S. 88°06' W. 49.17 feet to the point of beginning; thence N. 63°00' W. 193.00 feet; thence S. 83°49' W. 428.42 feet; thence N. 10°34' W. 50 feet to the terminus of said line. (Ord. 5744 §1, 1997).

**9.24.060 Chippewa River--Placement of buoys and markers.** A. The intent of this section is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public needs and the capability of the water resource.

B. The provisions of this section shall apply to the waters of the Chippewa River within the jurisdiction of the city. The provisions of this section shall be enforced by those law enforcement officers having the authority and jurisdiction for such enforcement.

C. In addition to all other boating rules and regulations contained in the Wisconsin Statutes and this code, no person shall operate any boat or other watercraft contrary to any buoy which is legally placed within the waters referred to in subsection B hereof.



D. Buoys may be placed, in compliance with regulations of the Wisconsin Department of Natural Resources, within such waters as follows:

1. Attached to an eye bolt anchor located about two hundred feet upstream of the spillway on the northwest shore of the Chippewa River in the vicinity of Mead Street extended, thence five hundred fifty feet northeast across the river to an eye bolt anchor located about one hundred fifty feet upstream of the powerhouse on the opposite side of the river.

2. Attached to the eye bolt anchors beginning approximately 700 ft. upstream from the Riverview Park boat landing, continuing downstream along the channel to the boat landing. Buoys should be identified and located as follows:

Hazard marker at	Longitude	91°30'10"
	Latitude	44°50'49"
Hazard marker at	Longitude	91°30'09"
	Latitude	44°50'49"
Slow - no wake marker at	Longitude	91°30'10"
	Latitude	44°50'48"
Channel marker at	Longitude	91°30'10"
	Latitude	44°50'48"
Slow - no wake marker at	Longitude	91°30'10"
	Latitude	44°50'46"
Hazard marker at	Longitude	91°30'09"
	Latitude	44°50'46"
Hazard marker at	Longitude	91°30'10"
	Latitude	44°50'45"
Channel marker at	Longitude	91°30'08"
	Latitude	44°50'48"
Channel marker at	Longitude	91°30'06"
	Latitude	44°50'47"
Slow - no wake marker at	Longitude	91°30'03"
	Latitude	44°50'46"

3. Attached to eye bolt anchors beginning approximately 400 ft. downstream from the Riverview Park boat landing and continuing downstream along the channel to the boat landing. Buoys shall be identified and located as follows:

Slow - no wake marker at	Longitude	91°31'00"
	Latitude	44°50'45"
Channel marker at	Longitude	91°30'00"
	Latitude	44°50'45"
Slow - no wake marker at	Longitude	91°30'00"
	Latitude	44°50'44"
Hazard marker at	Longitude	91°30'00"
	Latitude	44°50'44"
Hazard marker at	Longitude	91°30'00"
	Latitude	44°50'45"
Channel marker at	Longitude	91°30'01"
	Latitude	44°50'45"

E. No person shall, without authority, remove, damage, destroy, or moor or attach any watercraft to any buoy, beacon or marker placed in the waters of the Chippewa River by the authority of the United States, state, county or city, or by any private person pursuant to the provisions of this section. (Ord. 6525 §2, 2004; Ord. 5744 §1, 1997).



**9.24.070 Half Moon Lake--Placement of buoys.** A. The intent of this section is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public needs and the capability of the water resource. Additionally, this section is intended to designate a defined area to allow water ski exhibitions to take place and at the same time allow other users of the lake to access and enjoy the other sections of the lake.

B. The provisions of this section shall apply to the waters of Half Moon Lake within the jurisdiction of the city. The provisions of this section shall be enforced by those law enforcement officers having the authority and jurisdiction for such enforcement.

C. In addition to all other boating rules and regulations contained in the Wisconsin Statutes and this code, no person shall operate any boat or other watercraft not associated with water ski exhibitions within the area defined by buoys which are legally placed within the waters referred to in subsection B. hereof during the time period water ski exhibitions are taking place. Such time shall be posted at all boat landings.

D. Buoys may be placed in compliance with regulations of the Wisconsin Department of Natural Resources within such waters as follows:

Attached to an eye bolt anchor and located as follows:

Marker buoy at	Latitude	44°48'34.41"
	Longitude	91°30'55.02"
Marker buoy at	Latitude	44°48'47.41"
	Longitude	91°31'14.76"

E. A water ski jump may be placed in compliance with regulations of the Wisconsin Department of Natural Resources within such waters as follows:

Attached to an eye bolt anchor and located as follows:

Ski jump at	Latitude	44°48'48.77"
	Longitude	91°30'57.56"

(Ord. 5744 §1, 1997).

**9.24.080 Violations--Penalties.** Wisconsin state boating penalties as found in s. 30.80, Wis. Stats., and deposits as established in the uniform deposit and bail schedule established by the Wisconsin judicial conference are hereby adopted by reference, with all references to fines amended to forfeitures and all references to imprisonment deleted. Any person, firm, or corporation violating provisions of this chapter for which fines are not provided in s. 30.80, Wis. Stats., shall, upon conviction thereof, forfeit not more than two hundred dollars and costs of prosecution, and upon failure to pay the same, be confined to the county jail for not more than thirty days. (Ord. 6525 §3, 2004; Ord. 5744 §1, 1997).

**9.24.090 Severability.** The provisions of this chapter shall be deemed severable and it is expressly declared that the city council would have passed the other provisions of this chapter irrespective of whether or not one or more provisions may be declared invalid. If any provision of this chapter or the application to any person or circumstance is held invalid, the remainder of the chapter and the application of such provisions to other persons or circumstances shall not be affected. (Ord. 5744 §1, 1997).

## **Chapter 9.28**

### **EXPLOSIVES**

#### **Sections:**

**9.28.010 Permit required.**

**9.28.020 Violation--Penalty.**

**9.28.010 Permit required.** No person, firm, association or corporation, or any agent, servant or employee of any person, firm, association or corporation, shall keep for use, storage or sale, or deal

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in any bulk gunpowder, blasting powder, dynamite, nitroglycerine, gasoline, benzine or denatured alcohol or any other explosive, combustible or inflammable substances of a like or similar nature, in any quantity in any building, structure or place within the city without first having obtained a written permit therefor from the chief of the fire department of the city, designating the building, structure or place where and specifying the quantity and prescribing the conditions and terms upon which the same shall be permitted to be kept, stored or handled within the city. (Prior code §15.8).

**9.28.020 Violation--Penalty.** Any person, firm, association or corporation, or any agent, servant or employee of any person, firm, association or corporation violating any of the provisions contained in such permit shall be punished by a fine of not less than five dollars, nor more than twenty-five dollars, besides the costs of the prosecution, and in default of payment thereof, by imprisonment in the county jail for not more than thirty days, unless the fine and costs are sooner paid. (Prior code §15.88).

## **Chapter 9.30**

### **HUNTING**

#### **Sections:**

**9.30.010 Definitions.**

**9.30.020 Hunting on city property.**

**9.30.030 Penalty.**

**9.30.010 Definitions.** In this chapter, the following terms shall mean:

- A. "Hunt" or "hunting" means the pursuing, taking, catching or killing any wild animal or animals.
- B. "City property" means any property which is owned or leased by the City of Eau Claire including property in which the City of Eau Claire is a land contract vendee and all municipal easements. (Ord. 5549, 1995).

**9.30.020 Hunting on city property.** No person shall hunt or engage or assist in hunting on any city property except for fishing in designated areas. (Ord. 6545 §1, 2004; Ord. 5549, 1995).

**9.30.030 Penalty.** Any person violating any provision of this chapter shall, upon conviction, be subject to a forfeiture of not less than \$100 nor more than \$500 for each offense, and upon failure to pay the same shall be confined in the county jail for not more than 30 days. (Ord. 5549, 1995).

## **Chapter 9.32**

### **FIREWORKS AND FIREARMS\***

#### **Sections:**

**9.32.010 Definition.**

**9.32.020 Prohibited.**

**9.32.022 Pyrotechnic composition device vendor permit.**

**9.32.023 Permit fee--Conditions--Term.**

**9.32.024 Sale to minors.**

**9.32.025 Discharging fireworks.**

**9.32.030 Discharging firearms.**

**9.32.040 Possession of firearms--Public buildings, business establishments and public areas.**

**9.32.050 Violation--Penalty.**



**9.32.010 Definition.** In this section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

- A. Fuel or a lubricant;
- B. A firearm cartridge or shotgun shell;
- C. A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle;
- D. A match, cigarette lighter, stove, furnace, candle, lantern or space heater;
- E. A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion;
- F. A toy snake which contains no mercury;
- G. A model rocket engine;
- H. Tobacco and a tobacco product;
- I. A sparkler on a wire or wood stick not exceeding 36 inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate;
- J. A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture;
- K. A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed 3 grams in total weight;
- L. A device that emits smoke with no external flame and does not leave the ground;
- M. A cylindrical fountain not exceeding 100 grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke;
- N. A cone fountain not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke. (Ord. 4738 §2, 1987; prior code §20.38[a]).

**9.32.020 Prohibited.** No person may possess, sell or use fireworks within the city. However, nothing in this section shall be construed to prohibit the city manager or city council from authorizing pyrotechnic displays of fireworks in parks and other public places, whenever so authorized by resolution of the council. Further, nothing in this section shall be construed to prohibit the lawful possession, custody or control of the above-named articles by wholesale dealers when held in transit, or for sale or delivery to places for lawful pyrotechnic displays. (Ord. 4738 §2, 1987).

**9.32.022 Pyrotechnic composition device vendor permit.** A. It shall be unlawful for any person, firm or corporation to sell any of the devices described in s. 9.32.010 F., I., J., K., L., M., and N., without first obtaining a permit from the city clerk. (Ord. 5414 §1, 1994).

**9.32.023 Permit fee--Conditions--Term.** A. The annual fee for a permit to sell pyrotechnic composition devices under s. 9.32.022 is as stated in the City of Eau Claire Fees and Licenses Schedule. The entire permit fee shall be charged for every license for the whole or fraction of a year, and shall be paid when application is made for such permit.

B. The city clerk shall provide appropriate permit forms, as approved by the fire department, and shall maintain adequate record of the issuance thereof.

C. The applicant shall particularly describe the location where the permit will be used and shall at all times publicly and continuously display such permit at such location. Such permit may be transferred to a new location upon payment of a transfer fee as stated in the City of Eau Claire Fees and Licenses Schedule.

D. All vendors shall comply with all local ordinances and federal and state regulations and statutes regarding the sale, transport or storage of flammable, explosive or hazardous materials. (Ord. 6363 §29, 2002; Ord. 6236 §1, 2001; Ord. 5414 §2, 1994).

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\* For statutory provisions prohibiting sale and use of fireworks, see WSA 167.10.

**9.32.024 Sale to minors.** It shall be unlawful for any person, firm or corporation to sell any type of pyrotechnic composition device, as described in section 9.32.010, subsections F, G, I, J, L, M, and N, to any minor under the age of 18 years. (Ord. 6691, 2006; Ord. 5437, 1994).

**9.32.025 Discharging fireworks.** No person shall discharge any fireworks within the city unless permitted under section 9.32.020. (Ord. 4738 §3, 1987).

**9.32.030 Discharging firearms.** A. For the purpose of this chapter, "firearms" means any rifle, shotgun, handgun, spring gun, pellet gun, air gun, bow and arrow device or any other weapon from which a shot is discharged by an explosive or propellant.

B. It is unlawful for any person to fire or discharge any type of firearm in the city. This section shall not apply to the following:

1. Law enforcement officers when acting in the normal course of their employment;
2. Any bona fide safety training course or practice firing held at a location approved by the chief of police or that person's designee, or other governmental agency;
3. Bow and arrow hunting of deer when it has been determined by the director of parks and recreation that such hunting is necessary for proper game management or to protect parks or other property. Additionally, a permit for such hunting must be issued by the chief of police stating that the activity would not pose a threat to health and safety in the area where such hunting shall take place.
4. Spearing carp or other rough fish by bow and arrow in any waters except Half Moon Lake, pursuant to NR 20.09, 20.20, and any other applicable Department of Natural Resources regulation.

The chief of police or that person's designee may also authorize other firing or discharge of firearms in the city under special circumstances, provided that it has been established that such conduct will not jeopardize the safety or welfare of the public. The decision of the chief of police shall be final. (Ord. 6545 §2, 2004; Ord 5266 §2, 1992; Ord. 4777, 1987; Ord. 4738 §1, 1987; Ord. 4488 §1, 1984; Ord. 4420 §1, 1984; Ord. 4327 §3, 1983; Ord. 4065 §3, 1980).

**9.32.040 Possession of firearms--Public buildings, business establishments and public areas.**

A. "Law enforcement officer" means any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.

B. No invitee, except a law enforcement officer acting in the scope of his or her employment, shall have in his or her possession, carry or bear any firearm within any publicly owned building or business establishment open to the public within the city.

C. This section shall not be construed to prohibit the sale, purchase or trade of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective customer from attempting to buy, sell or trade firearms to or from a retailer.

D. This section shall not apply to a law enforcement investigator, watchman, guard, security or military personnel who are permitted by law to carry or bear a firearm, when acting in the line of duty.

E. This section shall not apply to the carrying or bearing of a firearm in a bona fide firearm safety or training course or practice firing held at a location approved by the chief of police or other governmental agency. Disapproval of a location by the chief of police may be appealed to the city council.

F. No person, except a law enforcement officer, may carry a firearm on any city street, sidewalk, alley or other city property (other than locations prohibited under this section), unless it is unloaded and enclosed in a carrying case.

G. The chief of police may exempt a particular location from the prohibitions contained in this section for the purpose of conducting an exhibition, gun show or otherwise bona fide activity. Applications for such exemption shall be made in writing at least 30 days prior to the scheduled event, and may only be granted where the public safety is not jeopardized. The chief of police may attach certain conditions to any approvals granted under this subsection. Disapproval by the chief of police may be appealed to the city council. (Ord. 4921, 1989; Ord. 4738 §1, 1987; Ord. 4488 §2, 1984; Ord. 4420 §2, 1984; Ord. 4327 §4, 1983).

**9.32.050 Violation--Penalty.** Any person violating any of the provisions of this chapter shall, upon conviction thereof, forfeit not less than one dollar nor more than two hundred dollars together with costs of prosecution, and upon failure to pay the same shall be confined in the county jail for not more than thirty days. (Ord. 4738 §1, 1987; Ord. 4327 §5, 1983; prior code §20.39).

## **Chapter 9.35**

### **OCCUPANCY**

#### **Sections:**

**9.35.010 Occupancy requirements.**

**9.35.020 Unlawful to overpopulate buildings.**

**9.35.030 Unlawful use of placard.**

**9.35.040 Enforcement.**

**9.35.050 Violation--Penalty.**

**9.35.010 Occupancy requirements.** A. The occupancy limit determined by the city of Eau Claire inspections division shall be the maximum number of people allowed in a building or structure, or part thereof. Said occupancy limit shall be indicated on a placard approved by the city of Eau Claire, and the placard shall be posted per the order of the building inspector.

B. Building or structure, or part thereof, shall be defined as assembly hall under Wisconsin Administrative Code chapters Comm 54.001 and 55.01 Wisconsin Enrolled Commercial Building Code section 303.1.

C. Occupancy limits are governed under this code sections 16.04.040 and 16.32.010. (Ord. 6670, 2006).

**9.35.020 Unlawful to overpopulate buildings.** It shall be unlawful for any person, firm, or corporation having possession, charge, or ownership of a building or structure, or part thereof, to permit in any building or structure, or part thereof, a greater number of persons than that indicated on the placard required to be posted pursuant to section 9.35.010 A. above as established by the city of Eau Claire inspection division. (Ord. 6670, 2006).

**9.35.030 Unlawful use of placard.** It shall be unlawful to fail to post, alter, deface, obstruct from view, or remove a placard required pursuant to section 9.35.010 A. above. (Ord. 6670, 2006).

**9.35.040 Enforcement.** A. Employees of the city of Eau Claire inspections division, the city of Eau Claire police department, or the city of Eau Claire fire department are authorized to issue citations for violation of this chapter.

B. If it is determined that the overpopulation of a building or structure, or part thereof, poses an immediate danger to the public health or safety, an employee of the city of Eau Claire inspections division, the city of Eau Claire police department, or the city of Eau Claire fire department shall, without notice or hearing, order the owner or agent of the property to correct the violation by complying with the occupancy limit, or by evacuating the occupants of said building or structure, or part thereof. (Ord. 6670, 2006).

**9.35.050 Violation--Penalty.** Any person, firm, or corporation having possession, charge or ownership of a building or structure, or part thereof, violating the provisions of this chapter shall be subject to a forfeiture of not less than \$100 nor more than \$500 dollars, plus costs, for each separate violation. Each person exceeding the occupancy limit shall be considered a separate violation. Each day of violation shall constitute a separate offense. (Ord. 6670, 2006).

## **Chapter 9.36**

### **PUBLIC NUISANCE**

#### **Sections:**

#### **9.36.010 Allowing unlawful.**

#### **9.36.020 Violation--Penalty.**

**9.36.010 Allowing unlawful.** A. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance in the city.

B. A public nuisance shall be defined as any thing, act, use or condition of a building or land that interferes substantially with the comfortable enjoyment of life, health or safety of another person or the public. Public nuisances shall include, but not be limited to:

1. Any use that causes the air or environment to become noxious or offensive.
2. Any use that unduly promotes the breeding of flies, mosquitoes, or other insects.
3. Any use that unduly promotes a harborage or breeding place for rodents or other animals.
4. The accumulation or deposit of refuse, trash, wood products, furniture, metal items, junk, construction materials or other materials to such an extent as to cause blight. However, nothing in this chapter shall prohibit reasonable storage of construction materials during the construction of any structure.
5. All junked, disassembled, inoperable or wrecked motor vehicles, or parts thereof, which have been allowed to remain outside of any building upon public or private property for a period in excess of seven days, unless located in a zoning district where such use is permitted.
6. All trees, hedges, poster boards or other obstructions that prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk. All trees, hedges, shrubbery or branches that obstruct or impede pedestrian or other lawful traffic on sidewalks.
7. All signs, billboards, awnings, and similar structures over or near streets, sidewalks or public places situated or constructed in a manner that endangers the public safety.
8. All buildings or structures erected, repaired, or altered within the city in violation of city ordinances relating to materials and manner of construction of such buildings or structures.
9. Repeated or continuous violations of this code.
10. Noises disturbing the public peace as specified in s. 9.56.070 and loud parties and gatherings as specified in s. 9.56.075 of this code.

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\* For statutory provisions punishing crimes against public health and safety, see WSA 941.01 et seq.

C. Abatement of public nuisances. 1. If it is determined that a public nuisance exists that poses an immediate danger to the public health or safety, an employee of the Eau Claire city-county health department or appropriate city department shall, without notice or hearing, order the owner or occupant of the property to remove or abate the nuisance within such time determined to be reasonable under the circumstances. If the owner or occupant cannot be contacted, such orders may be posted in a visible location on the property involved. If such owner or occupant fails or refuses to comply with such order, the employee shall order the removal or abatement of the nuisance and the cost thereof shall be charged to the property and shall be entered on the next tax roll as a special tax on the property. Such costs shall be in addition to any other enforcement actions taken under this code.

2. If it is determined that a public nuisance exists that does not pose an immediate danger to the public health or safety, an employee of the Eau Claire city-county health department or appropriate city department shall serve an order upon the owner or occupant of the property to remove or abate the nuisance within such time determined to be reasonable under the circumstances. If the owner or occupant cannot be served after reasonable attempt, such orders may be posted in a visible location on the property involved. The order shall also notify the owner or occupant that any person aggrieved shall, within 15 days of the service or posting of the order, apply to the circuit court for an order restraining the city and the inspecting employee from entering on the premises and abating or removing the nuisance, or be forever barred. The court shall determine the reasonableness of the order for the abatement of the nuisance. If such owner or occupant fails or refuses to comply with such order and fails to restrain the city and the inspecting employee, the employee shall order the removal or abatement of the nuisance and the cost thereof shall be charged to the property and shall be entered on the next tax roll as a special tax on the property. Such costs shall be in addition to any other enforcement actions taken under this code.

D. Other methods not excluded. The abatement and penalty provisions of this chapter are not exclusive and may be used in combination with each other or with any other section of this code or state statute applicable to this subject matter. (Ord. 6274, 2002; Ord. 6254 §1, 2002; Prior code §20.36).

**9.36.020 Violation--Penalty.** Any person or corporation violating the provisions of Section 9.36.010 shall upon conviction be fined in a sum or not less than five dollars, and not more than one hundred dollars, with the costs of prosecution. (Ord. 6254 §2, 2002; prior code §20.37).

## Chapter 9.37

### POSSESSION OF MARIJUANA

#### Sections:

#### **9.37.010 Possession.**

#### **9.37.020 Penalties.**

**9.37.010 Possession.** Pursuant to the provisions of s. 66.0107(1)(bm), Wis. Stats, as amended from time to time, the possession of 25 grams or less of marijuana, as defined in s. 961.01(14), Wis. Stats, and subject to the exceptions in the introduction of s. 961.41(3g), is prohibited and shall be punishable as a violation of this chapter, except that any person charged with possession of more than 25 grams of marijuana, or who is previously or currently charged with possession of any amount of marijuana in the state of Wisconsin, shall not be charged under this paragraph. (Ord. 6303, 2002).

**9.37.020 Penalties.** Any adult person violating this ordinance shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00, exclusive of costs, and upon failure to pay the same shall be confined in the county jail for not more than 30 days. (Ord. 6303, 2002).

**Chapter 9.38****SMOKING****Sections:****9.38.010 Smoking prohibited.****9.38.012 City buildings.****9.38.015 Public school grounds and premises.****9.38.017 Restrictions on sale or gift of cigarettes or tobacco products.****9.38.020 Violation--Penalty.**

**9.38.010 Smoking prohibited.** No person shall light a match or other flame-producing device, or smoke, carry a lighted cigar, cigarette or pipe in any of the following places:

A. A city transit bus owned and operated under the auspices of the city. Any person engaging in any of such activities may be refused admittance to said bus or may be required to leave such bus by the person in charge at the time, or his agent, without reimbursement for any fee or charge which may have been paid for admittance to said bus;

B. The Hobbs Municipal Ice Center. Any person engaging in any of such activities may be refused admittance to the Ice Center or may be required to leave the Ice Center by the person in charge at the time, or his agent, without reimbursement for any fee or charge which may have been paid for admittance to the Ice Center;

C. Any public bus shelter of the city, whether or not such shelter is located on public or private property. (Ord. 3597 (part), 1976).

**9.38.012 City buildings.** A. No person shall smoke or carry any lighted cigar, cigarette, pipe or any other lighted smoking equipment in any enclosed, indoor areas in city buildings, provided that such prohibition shall not apply to the Ray Wachs Civic Center.

B. The effective date of this section shall be May 1, 1991. (Ord. 5132, 1991).

**9.38.015 Public school grounds and premises.** It shall be unlawful for any person to commit the following acts on premises owned or rented by, or under the control of, a school board:

A. Smoke or possess a lighted cigar, cigarette, pipe or any other instrument with which to smoke tobacco; or

B. Place any tobacco product in one's mouth.

C. The prohibitions detailed in this section shall not apply to areas exempted by school officials.

D. The effective date of this section shall be August 20, 1990. (Ord. 5510, 1995; Ord. 5044 §1, 1990).

**9.38.017 Restrictions on sale or gift of cigarettes or tobacco products.** Section 134.66 of the Wisconsin Statutes is adopted by reference and made a part of this chapter as if fully set forth herein. (Ord. 5289 §1, 1992).

**9.38.020 Violation--Penalty.** Any person violating any of the provisions of Section 9.38.010 shall, upon conviction thereof, forfeit not more than 500 dollars together with the costs of prosecution for each offense. (Ord. 5044 §2, 1990; Ord. 4072 §3, 1980; Ord. 3579 (part), 1976).

**Chapter 9.39****PUBLIC BRIDGES****Sections:****9.39.010 Jumping or diving prohibited.****9.39.020 Penalty.**

**9.39.010 Jumping or diving prohibited.** No person shall jump or dive from any public bridge in the city. The city council may grant exceptions to such prohibition and, in special cases, can permit such jumping or diving. (Ord. 4949, 1989).

**9.39.020 Penalty.** Any person who violates any provision of this chapter shall forfeit not exceeding \$500 for each offense, together with the costs of prosecution. In default of the payment of such forfeiture and costs, such person shall be confined in the county jail for a term not exceeding 30 days. (Ord. 4949, 1989).

**IV. OFFENSES AGAINST PUBLIC DECENCY****Chapter 9.40****CRUELTY TO ANIMALS--EXHIBITION\*****Sections:****9.40.010 Cruelty--Prohibited.****9.40.020 Indecent exhibition.****9.40.030 Enforcing penalty.**

**9.40.010 Cruelty--Prohibited.\*\*** No person shall inhumanely, unnecessarily, or cruelly beat, injure, or otherwise abuse any dumb animal, within the limits of the city. Any person who violates this section shall forfeit not less than five dollars nor more than twenty-five dollars for each offense and, in default of payment thereof shall be committed to the county jail. (Ord. 4072 §4, 1980; prior code §12.09).

**9.40.020 Indecent exhibition.** No person or persons shall indecently exhibit any bull, jack or stallion, or let any such jack or horse to any mare, or any bull to any cow within the limits of this city, unless in some enclosed place out of public view, and at such distance from any private residence as not to be offensive. Any person or persons guilty of so exhibiting any bull, jack or stallion, or letting any such jack or stallion to any mare, or any such bull to any cow, unless as aforesaid, shall on conviction, be fined in a sum not less than five dollars, nor more than twenty-five dollars and the costs of prosecution for each and every offense. (Prior code §20.17).

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\* For statutory provisions punishing cruelty to animals, see WSA 948.

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\*\* For penalty provisions, see Section 6.12.070.

**9.40.030 Enforcing penalty.** In all cases of conviction for the violation of any of the provisions of Section 9.40.020, if the defendant neglects or refuses to pay the fine and costs imposed, the court shall enter a judgment that the defendant be imprisoned in the county jail for a term not exceeding three months, unless said fine and costs and expenses of prosecution are sooner paid. (Prior code §20.29(part)).

## **Chapter 9.42**

### **OBSCENE MATERIALS AND PERFORMANCES**

#### **Sections:**

##### **9.42.010 Definitions.**

##### **9.42.020 Prohibition.**

##### **9.42.030 Penalty.**

**9.42.010 Definitions.** In this chapter, the following words shall mean:

A. "Material" means any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, videotapes, pamphlets, newspapers, pictures, photographs, drawings, sculptures and tape or wire recordings.

B. "Obscene." Any material or performance is "obscene" if:

1. The average person, applying contemporary community standards would find the matter appeals to the prurient interest if taken as a whole;
2. The matter, under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and
3. The matter lacks serious literary, artistic, political or scientific value as measured by objective standards if taken as a whole.

C. "Performance" means any play, motion picture film, dance or other exhibition performed before an audience.

D. "Sexual conduct" means the commission or simulation of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of the human genitals. (Ord. 4752, 1987).

**9.42.020 Prohibition.** No person shall, with knowledge of the character and content of the material or performance:

- A. Commercially print, advertise, sell, publish, exhibit or transfer any obscene material;
- B. Have in his or her possession, for purpose of sale, any obscene material;
- C. Advertise, produce, admit persons to, or perform in any obscene performance;
- D. Require a retailer, wholesaler or distributor, as a condition to the purchase of other goods, accept obscene material. (Ord. 4752, 1987).

**9.42.030 Penalty.** A. Any person who violates this ordinance shall, upon conviction thereof, forfeit not less than \$200.00 nor more than \$1,000.00, together with the costs of prosecution, and in default of payment of such forfeiture and cost of prosecution, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.



B. Any person found guilty or violating this ordinance who has previously been convicted of violating this ordinance within any 365 day period, shall, upon conviction thereof, forfeit not less than \$500.00 nor more than \$2,000.00 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until such forfeiture and costs of prosecution are paid, but not exceeding six months. The 365 day period shall be measured from the dates of violations which resulted in convictions. (Ord. 4752, 1987).

### **Chapter 9.43**

### **EXPOSING MINORS TO HARMFUL MATERIALS**

#### **Sections:**

#### **9.43.010 Definitions.**

#### **9.43.020 Unlawful acts designated.**

#### **9.43.030 Defenses and exemptions.**

#### **9.43.040 Penalty.**

#### **9.43.010 Definitions.** In this chapter:

A. "Harmful to minors" means that quality of any material describing or representing nudity, sexual conduct, sexual excitement of sadomasochistic abuse, where:

1. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest;
2. The material depicts or describes, in a patently offensive way, sexual conduct, sexual excitement or sadomasochistic abuse; and
3. The material, taken as a whole, lacks serious literary, artistic, political or scientific value.

B. "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of the character and content of any material described herein which is reasonably susceptible of examination by the defendant.

C. "Knowledge of the minor's age" means knowledge or information that the person is a minor, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of the age of the minor.

D. "Material" means any book, magazine, newspaper or other printed or written material, or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or materials.

E. "Minor" means any person under the age of eighteen years.

F. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

G. "Pander" means solicitation through mail or newspaper advertising, external appearance of a store, the presence of signs, or the method in which material is displayed, all or any of which is an active attempt to secure or allow minors to buy or receive materials showing sexual conduct, sexual excitement, sadomasochistic abuse or nudity.

H. "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is a female, breast.

I. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

J. "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed. (Ord. 4386, 1983; Ord. 3589 §2(part), 1976).

**9.43.020 Unlawful acts designated.** No person knowingly, and with knowledge of the minor's age, shall sell, exhibit or loan for a monetary consideration, or pander, to a minor any material which is harmful to minors. (Ord. 4386, 1983; Ord. 3589 §2(part), 1976).

**9.43.030 Defenses and exemptions.** No person shall be subject to the provisions of section 9.43.020:

A. For any sale or exhibition to a minor where such person had reasonable cause to believe that the minor involved was 18 years old or more, and such minor exhibited to such person a driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was 18 years old or more;

B. For any sale or exhibition where a minor is accompanied by a parent or guardian, or accompanied by an adult and such person has no reason to suspect that the adult accompanying the minor is not the minor's parent or guardian;

C. When such person is a bona fide school, museum or public library or is acting in his capacity as an employee of such organization or as a retail outlet affiliated with and serving the educational purposes of such organization. (Ord. 4386, 1983; Ord. 3589 §2(part), 1976).

**9.43.040 Penalty.** Any person violating any provision of this chapter shall, upon conviction, be subject to a forfeiture of not more than two hundred dollars for each offense. Each day, or portion thereof, during which any violation continues shall be deemed to constitute a separate offense. (Ord. 4386, 1983; Ord. 3589 §2(part), 1976).

## **Chapter 9.44**

### **GAMBLING\***

#### **Sections:**

**9.44.010 Keeping house or device.**

**9.44.020 Punishment--fine.**

**9.44.030 Devices--Seizure and destruction.**

**9.44.040 Enforcing penalty.**

**9.44.010 Keeping house or device.** Every person who shall have, keep or permit to be used in any building or place within the city, used, occupied, or controlled by him, any E.O. table, keno table, faro bank, shuffle board, bagatelle, playing cards, or any other instrument, device or thing used for gambling, whereon or with which money, liquor or any article of value for use shall in any manner be played for, shall upon conviction thereof, be fined in a sum not exceeding five hundred dollars and costs of prosecution. (Prior code §20.18).

**9.44.020 Punishment--Fine.** Every person who bets any money, property or anything of value, plays at or upon any gambling table, bank or device, prohibited by Section 9.44.010, or who bets upon or plays at any game played at or by means of any such gaming table, bank or device, or on the side of, or against the keeper thereof or any other person, shall on conviction be fined in a sum not exceeding five hundred dollars and costs of prosecution. (Prior code §20.19).

**9.44.030 Devices--Seizure and destruction.** The city manager, or any councilman, chief of police, or any policeman of this city may seize or direct to be seized any instrument or thing used for the purpose of gaming or by, on or with which money or other article of value may be lost or won and the court before whom such prohibited gambling instruments, devices or things shall be brought shall cause the same to be publicly destroyed by burning or otherwise. Any person obstructing or resisting any of said officers in the performance of any act authorized by this, or the next following section, shall be fined in a sum not exceeding fifty dollars and costs of prosecution. (Prior code §20.20).

**9.44.040 Enforcing penalty.** In all cases of conviction for the violation of any of the provisions of sections 9.44.010 through 9.44.030, if the defendant neglects or refuses to pay the fine and costs imposed, the court shall enter a judgment that the defendant be imprisoned in the county jail for a term not exceeding three months, unless said fine and costs and expenses of prosecution are sooner paid. (Prior code §20.29 (part)).

## **Chapter 9.48**

### **PROSTITUTION\***

#### **Sections:**

**9.48.010 Houses--Keeping prohibited.**

**9.48.020 Enforcing penalty.**

**9.48.010 Houses--Keeping prohibited.** If any person shall voluntarily be guilty of keeping or maintaining, or shall be an inmate of, or in any way contribute to the support of any disorderly house or house of ill fame, or place for the practice of fornication, or knowingly own or be interested as proprietor or landlord of any such house, within the limits of the city, he shall on conviction be fined in a sum not exceeding one hundred dollars and costs of prosecution, and in the further sum of one hundred dollars for every twenty-four hours the house shall be continued after the first conviction, or after such person shall be ordered by the chief of police, or any policeman to suppress, restrain or discontinue the same. (Prior code §20.16).

**9.48.020 Enforcing penalty.** In all cases of conviction for the violation of any of the provisions of Section 9.48.010, if the defendant neglects or refuses to pay the fine and costs imposed, the court shall enter a judgment that the defendant be imprisoned in the county jail for a term not exceeding three months, unless said fine and costs and expenses of prosecution are sooner paid. (Prior code §20.29(part)).

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\* For statutory provisions punishing prostitution, see WSA 944.30; for statutory provisions punishing patrons of prostitutes, see WSA 944.31; for statutory provisions punishing pimping, see WSA 944.32; for statutory provisions punishing pandering, see WSA 944.33.

## **V. OFFENSES AGAINST PUBLIC PEACE**

### **Chapter 9.50**

#### **CARRYING CONTAINERS AND THROWING OBJECTS WITHIN SPECTATOR FACILITIES**

##### **Sections:**

**9.50.020 Throwing objects.**

**9.50.030 Violation--Penalty.**

**9.50.020 Throwing objects.** No person may throw or drop any bottle, can, container or other item of a similar nature within or from within the confines of a spectator facility owned, controlled or operated by the city or the Eau Claire area school district. (Ord. 3678 (part), 1976).

**9.50.030 Violation--Penalty.** Any person violating the provisions of Sections 9.50.010 and 9.50.020 shall, upon conviction, forfeit not more than one hundred dollars for each offense. (Ord. 3678 (part), 1976).

### **Chapter 9.52**

#### **PUBLIC INTOXICATION\***

##### **Sections:**

**9.52.010 Consumption or possession on school property.**

**9.52.020 School-sponsored events.**

**9.52.030 Consumption or the possession of open containers on streets.**

**9.52.040 Consumption of alcohol beverages or possession of open containers in city buildings, public parking lots, public parking ramps, and private parking areas.**

**9.52.050 Penalty.**

**9.52.010 Consumption or possession on school property.** The possession or consumption of fermented malt beverages as defined in Section 125.02(6) of the Wisconsin Statutes, or intoxicating liquor as defined in Section 125.02(8) of the Wisconsin Statutes, is prohibited within any school building or upon any school grounds under the jurisdiction of the Eau Claire Area School District in the city limits. Any person violating this provision shall upon conviction thereof forfeit not less than \$5 nor more than \$100 together with costs of prosecution. (Ord. 4627 §3, 1986; Ord. 4063 §1, 1980).

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\* For statutory provisions punishing disorderly conduct and public drunkenness, see WSA 947.01 and 947.03.

**9.52.020 School-sponsored events.** The possession or consumption of fermented malt beverages, as defined in Section 125.02(6) of the Wisconsin Statutes, or intoxicating liquor as defined in Section 125.02(8) of the Wisconsin Statutes, is prohibited at the Carson Park Stadiums during athletic or other events sponsored by the Wisconsin State University-Eau Claire or any other school. Any person violating this provision shall upon conviction thereof forfeit not less than \$5 nor more than \$100 together with costs of prosecution, and upon failure to pay the same shall be confined in the county jail for not more than 30 days. (Ord. 4627 §4, 1986; prior code §20.47).

**9.52.030 Consumption or the possession of open containers on streets.** The consumption of or possession of a container which is open and which contains fermented malt beverage or intoxicating liquor as defined by the statutes of the state of Wisconsin, which are herein incorporated by reference, on the streets, sidewalks, alleys or boulevards of the city, is prohibited except at such times and such places as may be specifically exempted temporarily from the provisions hereof from time to time by the city council in connection with public celebrations. This section prohibits the above acts even though the person who violates them is within or upon a vehicle or other conveyance. (Ord. 3684, 1976; Ord. 3300 §I, 1972; Ord. 3157 §I, 1970; prior code §5.01(b)).

**9.52.040 Consumption of alcohol beverages or possession of open containers in city buildings, public parking lots, public parking ramps, and private parking areas.** A. The consumption of alcohol beverages or the possession of a container which is open and contains an alcohol beverage as defined by Wisconsin Statutes in any city-owned building, public parking lot, public parking ramp or on city property shall be prohibited, except at such times and such places as may be specifically exempted by the city council or city manager, or otherwise approved by this code. This section prohibits the above acts even though the person who violates them is within or upon a vehicle or other conveyance.

B. The consumption of an alcohol beverage or possession of a container which is open and contains an alcohol beverage, as defined by chapter 125 of the Wisconsin Statutes, in any private parking lot or facility held open to the public shall be prohibited unless permission has been granted by the owner or designee and such consumption is not in violation of s. 125.09(1) of that chapter. (Ord. 6466, 2004; Ord. 4643 §1, 1986).

**9.52.050 Penalty.** Any person who violates Section 9.52.030 or Section 9.52.040 shall upon conviction forfeit not less than \$20.00 nor more than \$200.00 together with the costs of prosecution, and upon failure to pay the same shall be confined in the county jail for not more than 30 days. (Ord. 4643 §2, 1986).

## **Chapter 9.56**

### **DISORDERLY CONDUCT**

#### **Sections:**

- 9.56.010 Disorderly conduct.**
- 9.56.020 Prohibiting the harboring of juveniles without parental consent.**
- 9.56.030 Disturbing religious assembly.**
- 9.56.040 Enforcing penalty.**
- 9.56.050 Public good order.**
- 9.56.055 Urination/defecation prohibited.**
- 9.56.060 Violation--Penalty.**
- 9.56.070 Prohibition of noises disturbing the public peace.**

**9.56.075 Loud parties or gatherings.**

**9.56.080 Violation--Penalty.**

**9.56.085 Harassment of police dogs.**

**9.56.090 Responsibility of owner or occupant.**

**9.56.010 Disorderly conduct.** Whoever does any of the following within the limits of the city shall be subject to a forfeiture of not more than five hundred dollars:

A. In a public or private place engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance; or

B. With intent to annoy another, makes a telephone call, whether or not conversation ensues. (Ord. 4531, 1984; Ord. 4378 §1, 1983; Ord. 3944 §1, 1978).

**9.56.020 Prohibiting the harboring of juveniles without parental consent.** A. It shall be unlawful for any owner, tenant, or person in control of a residence or other facility to knowingly allow or permit a child under the age of 18 to loiter, idle, or remain in said residence or upon said property without the consent of the child's parent, guardian, or spouse.

B. Any person violating the provisions of this section shall, upon conviction thereof, forfeit not more than \$500 plus the costs of prosecution for each offense. (Ord. 5686 §3, 1997).

**9.56.030 Disturbing religious assembly.** Any person who disturbs any congregation or assembly, met for religious worship, by making a noise, or by rude and indecent behavior, or profane discourse within the place of worship, or so near the same as to disturb the order and solemnity of the meeting shall be subject to a fine not exceeding fifty dollars and costs of prosecution. (Prior code §20.06).

**9.56.040 Enforcing penalty.** Any person in default of payment of forfeitures and costs of prosecution fixed in Section 9.56.030 shall be imprisoned in the county jail of Eau Claire County for not more than thirty days. (Prior code §20.09(part)).

**9.56.050 Public good order.** It is unlawful for any person or persons to stand, loiter or congregate in any street or upon any sidewalk, bridge, crossing or other public place so as to obstruct the same, or to hinder, prevent or annoy persons passing or attempting or desiring to pass therein or thereupon or into or out of any building, private or public; nor shall any person make remarks, gestures, noises, signs or the like to disturb, annoy or insult any person being upon or passing along any street, sidewalk, bridge, crossing or other public place, or along, into or out of any public carrier, provided that this section shall not apply to acts made lawful by Section 103.53 of the statutes of Wisconsin. (Prior code §5.13(part)).

**9.56.055 Urination/defecation prohibited.** No person shall urinate or defecate in any public place, on any public property, or on any private property not designed, intended, and approved for such use. (Ord. 6467, 2004).

**9.56.060 Violation--Penalty.** Any person violating any provisions of section 9.56.050, section 9.56.055, or any order given under its authority shall, upon conviction thereof, be subject to a fine of not less than ten dollars or more than \$60.00 and the costs of prosecution, and in default of the payment of the fine and costs of prosecution, shall be imprisoned in the county jail until said fine and costs of prosecution are paid, but not to exceed thirty days. (Ord. 6467, 2004; Prior code §5.13(3)(part)).

**9.56.070 Prohibition of noises disturbing the public peace.** A. No person shall make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection and preservation of property or of the health, safety, life or limb of some person.

B. No person, firm or corporation occupying or having charge of any building or premises, or any part thereof shall cause, suffer or allow any loud, excessive or unusual noise in the operation or use of any mechanical or electrical device, instrument or machine, which loud, excessive or unusual noise will disturb the comfort, quiet or repose of persons therein or in the vicinity.

C. No person, firm or corporation occupying or having charge of any building or premises, or any part thereof, shall cause, suffer or allow any loud, excessive or unusual noise to occur in such building or on such premise, which would disturb the comfort, quiet or repose of persons therein or in the vicinity.

D. The use of radio loudspeakers or amplifiers, phonographs, and similar devices in the streets, alleys, or public places in the city or in or on buildings or structures along any such streets, alleys, or public places in such manner that the sound or noise produced or conveyed thereby in any such street, alley, or public place is loud or boisterous or such as may endanger or injure the comfort, repose, health or safety of others, is prohibited.

E. No person shall employ the use of an engine braking system which utilizes engine exhaust to slow the vehicle, commonly referred to as compression braking or engine braking, except in the case of an emergency. (Ord. 6617 §1, 2005; Ord. 4748 §1, 1987; Ord. 3944 §2, 1978).

**9.56.075 Loud parties or gatherings.** A. No person occupying or having charge of any building or premises, or any part thereof, shall cause, suffer or allow any loud, excessive or unusual noise in those places while hosting or permitting a party, social gathering, meeting or assembly of any kind, where such noise would disturb the comfort, quiet or repose of persons therein or in the vicinity.

B. Any party or gathering that violates this section shall cease and disperse immediately upon the order of a police officer and all persons not domiciled at the site of such gathering shall leave the premises immediately. Any person who fails or refuses to obey and abide by such order shall be guilty of a violation of this subsection. (Ord. 6220, 2001; Ord. 4748 §2, 1987).

**9.56.080 Violation--Penalty.** Any person violating the provisions of sections 9.56.070 or 9.56.075 shall upon conviction forfeit a sum of not less than one dollar nor more than five hundred dollars for each offense together with the costs of prosecution and in default of the payment of such forfeiture and costs such person shall be confined in the county jail for a term of not less than five days nor more than sixty days unless such forfeiture and costs are sooner paid, and each day's violation constitutes a separate offense. (Ord. 4748 §3, 1987; Ord. 4378 §2, 1983; Ord. 4072 §5, 1980; prior code §20.41).

**9.56.085 Harassment of police dogs.** A. No person shall knowingly resist, obstruct, or interfere with any police dog on duty. Furthermore, no person shall harass or tease a police dog at any time. Police dogs on duty shall also be exempt from the provisions of the animal control ordinances of Chapter 6 of this code.

B. Any person violating the provisions of this section shall, upon conviction thereof, forfeit not more than \$500 plus the costs of prosecution for each offense. (Ord. 5047, 1990).

**9.56.090 Responsibility of owner or occupant.** A. In this section "knowingly" means having received notice from the police department by verbal or written communication.

B. Following the occurrence of conduct or activity upon any premises, which conduct or activity is prohibited by either section 9.56.010, 9.56.070, 9.56.075 or s. 947.01 of the Wisconsin Statutes, the issuance of a citation, arrest or conviction, no owner, tenant or person in charge of such premises shall knowingly permit any such conduct or activity to reoccur upon the said premises without first making a timely, reasonable and bona fide attempt, verbally or in writing, which directs the cessation of such conduct or activity. Whether or not the conduct or activity actually ceases shall not determine whether a timely, reasonable and bona fide attempt is made under this section.

C. Any person violating the provisions of this section shall, upon conviction, forfeit not more than five hundred dollars for each offense. (Ord. 4761, 1987; Ord. 4378 §3, 1983).

**Chapter 9.58**

**BLOCK PARTY**

**Sections:**

- 9.58.010 Definition.**
- 9.58.020 Purpose.**
- 9.58.030 Application.**
- 9.58.040 Approval.**
- 9.58.050 Noise.**
- 9.58.060 Hours.**
- 9.58.070 Termination.**
- 9.58.080 Appeal.**
- 9.58.090 Violation--Penalty.**

**9.58.010 Definition.** Block party ("party") shall mean a neighborhood social and recreational gathering of persons residing in adjacent city blocks where a portion of a street or alley sought to be closed and used for the gathering is completely residential. A party is a privately sponsored gathering that is not sponsored by an organization or business. A party does not involve the sale of food, alcohol, or concessions. (Ord. 6579, 2005).

**9.58.020 Purpose.** The purpose of a block party is to bring neighbors together to get to know each other, provide a forum for solving neighborhood problems, provide a sense of safety, assist in crime prevention, and build a sense of community. (Ord. 6579, 2005).

**9.58.030 Application.** Application for approval of a party shall be submitted to the Chief of Police or designee at least 15 days prior to said party. (Ord. 6579, 2005).

**9.58.040 Approval.** The chief of police or designee may approve, approve with conditions, or deny the application for reasons of public health, safety, or welfare, or due to violation of this section, the city code of ordinances, or applicable state or federal law. The applicant may be requested to meet with the chief of police or designee to review the application. (Ord. 6579, 2005).

**9.58.050 Noise.** Parties are subject to noise regulation under ch. 9.56. (Ord. 6579, 2005).

**9.58.060 Hours.** A street or alley closed for a party shall be reopened 30 minutes prior to sunset. (Ord. 6579, 2005).

**9.58.070 Termination.** If the police department receives valid complaints concerning the party or the party does not conform to the conditions of the approved application, the police department may order the party to cease. (Ord. 6579, 2005).

**9.58.080 Appeal.** Appeal from a denial made under this chapter shall be made to the administrative review board under the procedures specified in ch. 1.06. (Ord. 6579, 2005).

**9.58.090 Violation--Penalty.** Any person violating any provision of this chapter, or any order, requirement, or condition imposed under this chapter by the chief of police or designee, shall be subject to a forfeiture of not less than \$50 or more than \$500 per day for each violation, together with the costs of prosecution. (Ord. 6579, 2005).



**Chapter 9.59****SPECIAL EVENTS****Sections:**

- 9.59.005 Purpose.**
- 9.59.010 Definition.**
- 9.59.015 Exceptions.**
- 9.59.020 Permit required.**
- 9.59.030 Review and approval.**
- 9.59.040 Permit application.**
- 9.59.050 Special event fees.**
- 9.59.060 Alcohol sales.**
- 9.59.070 Concession sales.**
- 9.59.080 Noise.**
- 9.59.090 Parks--Public grounds.**
- 9.59.100 Public streets and sidewalks.**
- 9.59.110 Liability and insurance.**
- 9.59.120 Appeal.**
- 9.59.140 Violation--Penalty.**

**9.59.005 Purpose.** Special events are community events such as parades on city streets, athletic events, charity walks and runs, music festivals, and other events that meet the definition in this chapter. Such events are allowed subject to the reasonable requirements of this chapter and of the policies and procedures of the parks and recreation department. The city council finds such requirements necessary to promote the equitable use of limited public park and other lands, to allow for the efficient use of limited city staff resources through proper planning for such events, and to protect the public health, safety, and welfare. (Ord. 6592, 2005).

**9.59.010 Definition.** A special event shall mean a scheduled public gathering of persons, on city property, to which the public is invited and over 500 persons are expected to attend in a single day; or at which concessions are to be sold, such as food or beverages; or at which over 6 half barrels of beer are to be present; and which will reasonably require, based on then existing city policies and procedures, the provision of city support services to accommodate the event on public property. A special event is open to the public at a predetermined location on public property, including, but not limited to, city parks, streets, and sidewalks. (Ord. 6592, 2005).

**9.59.015 Exceptions.** This chapter shall not apply to any of the following:

- A. Any march, public assembly, or other activity protected by the First Amendment to the United States Constitution.
- B. City sponsored events.
- C. Funeral processions.
- D. Events exempted by contract with the city of Eau Claire. (Ord. 6592, 2005).

**9.59.020 Permit required.** A special event shall have a special events permit. It is unlawful for a special event to take place without a special events permit. (Ord. 6592, 2005).

**9.59.030 Review and approval.** The director of parks and recreation or designee may approve, approve with conditions, or deny a permit when necessary to protect the public health, safety or welfare, or due to violation of this section, the city code of ordinances, or applicable state or federal law. In addition, for special events using public streets or sidewalks, such as parades, races, and walks, the chief of police or designee may approve, approve with conditions, or deny the permit to protect the public health, safety, or welfare, or due to violation of this section, the city code of ordinances, or applicable state or federal law. The applicant may be required to meet with the director of parks and recreation or designee, or the chief of police or designee, to review the application. (Ord. 6592, 2005).

**9.59.040 Permit application.** Application for a special events permit shall be submitted to the parks and recreation department at least 45 days prior to the special event and shall include at least the following information:

- A. Completed application form.
  - B. Copy of a current tax exempt identification number, if applicable.
  - C. A layout or map, which accurately depicts the proposed use of the public property requested.
  - D. A non-refundable application fee, as stated in the City of Eau Claire Fees and Licenses Schedule.
- (Ord. 6592, 2005).

**9.59.050 Special event fees.** A. The application fee shall be as stated in the City of Eau Claire Fees and Licenses Schedule.

B. Fees for use of public property and services shall be as stated in the City of Eau Claire Fees and Licenses Schedule.

C. The city council may approve an agreement with a special event permit holder that provides for actual cost recovery by the city in lieu of the fees stated in the City of Eau Claire Fees and Licenses Schedule. (Ord. 6592, 2005).

**9.59.060 Alcohol sales.** It is the responsibility of the special event permit holder to obtain a temporary Class "B" fermented malt beverage license per s. 9.76.100 if alcohol is to be sold at the special event. The license holder shall, in addition to all other requirements of the law, the city liquor license, and this section, take reasonable steps to ensure that alcohol beverages are consumed only by persons who are of legal drinking age, and not by persons who are not of age or who are intoxicated. Reasonable steps shall include, but not be limited to, the use of barriers and fences to enclose the area where alcohol is to be consumed, and supervision of the area by security and staff personnel. Failure to take reasonable steps and use them at all times when alcohol is sold is grounds for termination of the event, issuance of a city ordinance citation, or denial of the fermented malt beverage license or special events permit in the future. (Ord. 6592, 2005).

**9.59.070 Concession sales.** It is the responsibility of the special event permit holder to obtain city council approval for the sale of concessions in city parks per s. 9.76.100. (Ord. 6592, 2005).

**9.59.080 Noise.** The special events permit holder is subject to noise regulation under ch. 9.5 and shall not permit the sound of the event to be heard reasonably beyond the boundaries of the public property used for the special event at unreasonable levels. (Ord. 6592, 2005).

**9.59.090 Parks--Public grounds.** A special event permit shall not exempt the permit holder or guests from the requirements of ch. 9.76 regulating parks and public grounds. (Ord. 6592, 2005).

**9.59.100 Public streets and sidewalks.** All use of public streets and sidewalks for special events shall be on routes approved by the chief of police or designee. The chief of police may designate what streets and sidewalks or what portions thereof may be used for a special event. It shall be the duty of the permit holder to obey any such designation when made. Failure to obey shall be a violation of this section by the permit holder and may result in the termination of the event or issuance of a city ordinance citation. A future special events permit may be denied based on a past violation of this section. (Ord. 6592, 2005).

**9.59.110 Liability and insurance.** A. The special events permit holder agrees to indemnify, defend, save, and hold harmless the city, its officers and employees, from and against any and all claims, liability, lawsuits, damages, and causes of action which may arise out of the special event.

B. The special events permit holder shall provide proof of liability and property damage insurance in the amount of at least \$1,000,000 per occurrence, with the city of Eau Claire named as an additional insured.

C. The special events permit holder shall provide to the director of parks and recreation, at least 15 days prior to the event, a certificate of insurance as evidence that the requirements set forth in this section have been met. (Ord. 6592, 2005).

**9.59.120 Appeal.** A denial of a permit may be appealed by the permit holder to the administrative review board under the procedures specified in ch. 1.06. (Ord. 6592, 2005).

**9.59.140 Violation--Penalty.** A. Failure to obey provisions of this section, or any order, requirement, or condition imposed under this chapter by the director of parks and recreation or designee, shall be a violation of this chapter by the permit holder and may result in the termination of the event. A future permit may be denied based on a past violation of this chapter.

B. Any person violating any provision of this chapter, or any order, requirement, or condition imposed under this chapter by the director of parks and recreation or designee, or the chief of police or designee, shall be subject to a forfeiture of not less than \$50 or more than \$500 per day for each violation, together with the costs of prosecution. (Ord. 6592, 2005).

## **Chapter 9.60**

### **MARCHES AND PUBLIC ASSEMBLIES**

#### **Sections:**

- 9.60.010 Definitions.**
- 9.60.020 Permit required.**
- 9.60.030 Exception for city parks.**
- 9.60.040 Special event permit.**
- 9.60.050 Hours.**
- 9.60.060 Noise restricted.**
- 9.60.070 Parks--Public grounds.**
- 9.60.080 Application for permit.**
- 9.60.090 Application time limit.**
- 9.60.100 Review and recommendation.**
- 9.60.110 Notice of denial of application.**
- 9.60.120 Appeal procedure.**
- 9.60.130 Fees and costs.**
- 9.60.140 Violation--Penalties.**

**9.60.010 Definitions.** As used in this chapter:

A. The term "march" shall mean a group of persons moving from one place to another on a public way or public place, which requires a street closing or otherwise requires police officers to stop or reroute traffic or pedestrians because marchers will not comply with traffic regulations and controls. A march is for the purpose of conducting activities which are protected by the First Amendment to the United States Constitution.

B. The term "public assembly" shall mean an organized public gathering or group of persons which is reasonably anticipated to obstruct the normal flow of vehicular or pedestrian traffic upon a public way or the normal use of a public place because those assembled will not comply with the traffic regulations or controls.

or other public place use laws or policies, and that is collected together in one place, but does not meet the definition of a march. A public assembly is for the purpose of conducting activities which are protected by the First Amendment to the United States Constitution.

C. The term "public way" shall mean streets, sidewalks, alleys, trails, paths, or any other public ways.

D. The term "public place" shall mean any property under the control of, owned, managed, leased, or operated by the city of Eau Claire which is held open to the public for public use. (Ord. 6593, 2005).

**9.60.020 Permit required.** A march or public assembly in the city shall be required to obtain a permit from the city clerk, which shall be issued only after review and recommendation by the chief of police or designee. (Ord. 6593, 2005).

**9.60.030 Exception for city parks.** A person or organization that has reserved a pavilion in a city park or that has been issued a special event permit under ch. 9.59 for use of a city park need not apply for a permit hereunder. (Ord. 6593, 2005).

**9.60.040 Special event permit.** Applicants under this chapter also meeting the definition of and requiring a permit as a special event under ch. 9.59 shall be required to meet all terms and conditions of that chapter, as applicable, including, but not limited to the sale of merchandise, serving of alcohol, or other activities beyond the scope of the First Amendment to the United States Constitution. (Ord. 6593, 2005).

**9.60.050 Hours.** A march or public assembly using a city park shall only be permitted to use the city park during its applicable hours of operation. (Ord. 6593, 2005).

**9.60.060 Noise restricted.** The march or public assembly is subject to noise regulation under ch. 9.56 and shall not permit the sound of the event to be heard at unreasonable levels beyond the general boundaries of the public way or public place used for the march or public assembly. (Ord. 6593, 2005).

**9.60.070 Parks--Public grounds.** A permit shall not exempt the permit holder or participants from the requirements of ch. 9.76 regulating parks and public grounds. (Ord. 6593, 2005).

**9.60.080 Application for permit.** A person seeking a march or public assembly permit shall file an application with the city clerk on forms provided. The application shall be signed by the applicant upon oath or affirmation that the statements contained therein are true and correct to the best of the applicant's knowledge. The application shall be promptly forwarded to the chief of police or designee for review. If the permit is granted, the city clerk shall issue the permit forthwith. (Ord. 6593, 2005).

**9.60.090 Application time limit.** Application for a permit under this chapter shall be submitted to the city clerk at least seven (7) days before the date of the proposed march or public assembly. The chief of police or designee may waive the time limit of any proposed march or public assembly after due consideration of the date, time, and place of the event, the anticipated number of participants, the city services required in connection with the event, and issues of public safety. (Ord. 6593, 2005).

**9.60.100 Review and recommendation.** A. The chief of police or designee shall investigate the facts set out in the application and shall recommend that the city clerk issue the permit when he or she finds that:

1. The march or public assembly will not substantially interrupt the safe and orderly movement of other pedestrians or vehicular traffic contiguous to its route or location;
2. The march or public assembly will not require a diversion of so great a number of city police officers as to prevent normal police protection of the city;
3. The concentration of persons, animals, and vehicles will not unduly interfere with proper fire and police protection or other public services within the city;

4. Adequate sanitation and other required health facilities are or will be made available in or adjacent to the area in which the march or public assembly will take place;

5. Sufficient parking, including handicapped parking, exists near the area of the march or public assembly to accommodate the number of vehicles reasonably expected;

6. The proposed activity will not interfere with the use of the requested area by another party to whom a valid permit has been issued for the same area or route;

7. No other event is scheduled elsewhere in the city where police resources required for that event are so great that the deployment of police services for the proposed march or public assembly would have an immediate and adverse effect upon the welfare and safety of persons and property; and

8. The application contains sufficient information about the proposed march or public assembly to enable the chief of police or designee to evaluate the event under this section.

B. In investigating the application, the chief of police or designee may recommend a date, time, location, or route different from that requested by the applicant. This alternative recommendation shall, to the extent practicable, authorize an event that will have comparable public visibility and a similar route, location, and date to that of the proposed event. The chief of police or designee may also recommend terms and conditions necessary in his judgment to protect the public peace, health, and safety, including, but not limited to restricting the portion of the public way or public place that may be used for the event and the hours thereof, and the type and number of blockades or warning devices that are to be provided for the safety of motorists and the protection of those persons participating in the march or public assembly. Such conditions may be imposed only for articulable reasons, which reasons may include, but are not limited to those based on the safety of the public or the participants in the event, danger of injury to private property, hardship to the residents or owners of private property adjacent to proposed locations for permitted activities, or unreasonably adverse impact upon vehicular or pedestrian traffic. Such reasons shall be reduced to writing and provided to the applicant for the permit. In deciding whether or not to impose such conditions, the chief of police or designee may consider the hardship to the march or public assembly organizers in meeting the conditions prior to the event. Nothing herein shall be construed to allow noncompliance with the city's noise ordinance under ch. 9.56.

C. If the chief of police or designee denies an application for failure to provide sufficient information on the application, he shall specify what additional information must be provided on a new or amended application. (Ord. 6593, 2005).

**9.60.110 Notice of denial of application.** The chief of police or designee shall act promptly to review and issue a recommendation to the city clerk. If the chief of police or designee recommends denial, then the city clerk shall deny the permit and notify the applicant by facsimile transmission, telephonically, e-mail, or by U. S. mail of the denial and provide a summary of the facts and conclusions of the chief of police or designee which are the basis for the denial. (Ord. 6593, 2005).

**9.60.120 Appeal procedure.** Appeal from determinations made under this section shall be made to the administrative review board under the procedures specified in ch. 1.06. The administrative review board shall expedite the appeal process by providing a hearing within ten days of receipt of a written request for an appeal. (Ord. 6593, 2005).

**9.60.130 Fees and costs.** A. An applicant for a permit may be required to submit to the city treasury, before the permit is issued, a traffic-control fee in an amount established by the chief of police or designee. The traffic-control fee shall be based on consideration of the following information which shall serve as a standard to guide his discretion in setting the fee:

1. The route for the march;
2. The time of day the march or public assembly is to take place;
3. The date and day of the week proposed;
4. The general traffic conditions in the area requested, both vehicular and pedestrian, with special attention being given to the rerouting of vehicles or pedestrians normally using the requested area;



5. The number of marked and unmarked intersections along the route requested, together with the traffic-control devices present;
6. The number of marked and unmarked intersections and traffic-control devices if traffic must be completely rerouted from the area;
7. The estimated number of participants and vehicles;
8. The nature, composition, format, and configuration of the march or public assembly;
9. The anticipated weather conditions;
10. The estimated time or duration of the march or public assembly;
11. The plan of the applicant for emergency medical services;
12. Sufficient parking near the march route to accommodate the number of vehicles reasonably expected, including provisions arranged for and made by the applicant for handicapped parking; and

13. Applicable fees as stated in the City of Eau Claire Fees and Licenses Schedule.

B. The traffic-control fee shall cover the cost to the city of providing sufficient officers to regulate traffic and maintain public order incident to the proposed march or public assembly. The fee shall not be increased by consideration of the nature, substance, or content of the subject matter or speech for which the march or public assembly is organized, nor by consideration of the potential for hostile counter activity. The city shall bear the additional costs that are necessary to deal with the possibility of disorder arising out of the nature and content of the subject matter or speech for which the march or public assembly is organized.

C. Marches and public assemblies that utilize public ways and public places shall be assessed applicable fees as stated in the City of Eau Claire Fees and Licenses Schedule. Said fees are payable to the city treasury prior to issuance of the permit. (Ord. 6593, 2005).

**9.60.140 Violation--Penalties.** A. Failure to obey provisions of this section, or any order, requirement, or condition imposed under this chapter by the chief of police or designee, shall be a violation of this chapter by the permit holder and may result in the termination of the event. A future permit may be denied based on a past violation of this chapter.

B. Any person violating any provision of this section, or any order, requirement, or condition imposed under this section by the chief of police or designee, shall be subject to a forfeiture of not less than \$50 or more than \$500 per day for each violation, together with the costs of prosecution. (Ord. 6593, 2005).





**VI. OFFENSES AGAINST PROPERTY****Chapter 9.61****TRESPASS****Sections:**

**9.61.010 Trespass to land.**

**9.61.020 Trespass to dwellings.**

**9.61.030 Trespass to construction site.**

**9.61.040 Penalties.**

**9.61.010 Trespass to land.** Wisconsin Statutes s. 943.13 regarding trespass to land, exclusive of penalty, is hereby adopted by reference and made an offense punishable as a violation of this chapter. (Ord. 6304, 2002).

**9.61.020 Trespass to dwellings.** Wisconsin Statutes s. 943.14 regarding trespass to dwellings, exclusive of penalty, is hereby adopted by reference and made an offense punishable as a violation of this chapter. (Ord. 6304, 2002).

**9.61.030 Trespass to construction site.** Wisconsin Statutes s. 943.15 regarding trespass onto a construction site or into a building, dwelling, or room, exclusive of penalty, is hereby adopted by reference and made an offense punishable as a violation of this chapter. (Ord. 6304, 2002).

**9.61.040 Penalties.** Any adult person violating this ordinance shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00, exclusive of costs, and upon failure to pay the same shall be confined in the county jail for not more than 30 days. (Ord. 6304, 2002).

**Chapter 9.62**

**RETAIL THEFT**

**Sections:**

**9.62.010 Definitions.**

**9.62.020 Retail theft.**

**9.62.030 Detention.**

**9.62.040 Evidence.**

**9.62.050 Severability.**

**9.62.060 Penalty.**

**9.62.010 Definitions.** In this section:

A. "Merchandise" means one or more items of property with a total retail value of up to \$300.00, exclusive of sales tax.

B. "Merchant" includes any "merchant" as defined in s. 402.104(3), Wis. Stats., and includes any innkeeper, motel keeper, or hotelkeeper.

C. "Property" means one or more items of merchandise with a total retail value of up to \$300.00, exclusive of sales tax.

D. "Theft detection device" means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.

E. "Theft detection device remover" means any tool or device used, designed for use, or primarily intended for use in removing a theft detection device from merchandise held for resale by a merchant or property of a merchant.

F. "Theft detection shielding device" means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.

G. "Value of merchandise" has the meaning designated in s. 943.50(1)(b), Wis. Stats. (Ord. 6305 §1, 2002).

**9.62.020 Retail Theft.** Any person may be penalized as provided in s. 9.62.060 if he or she does any of the following without the merchant's consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise or property:

A. Intentionally alters indicia of price or value of merchandise held for resale by a merchant or property of a merchant.

B. Intentionally takes and carries away merchandise held for resale by a merchant or property of a merchant.

C. Intentionally transfers merchandise held for resale by a merchant or property of a merchant.

D. Intentionally conceals merchandise held for resale by a merchant or property of a merchant.

E. Intentionally retains possession of merchandise held for resale by a merchant or property of a merchant.

F. While anywhere in the merchant's store, intentionally removes a theft detection device from merchandise held for resale by a merchant or property of a merchant.

G. Uses, or possesses with intent to use, a theft detection shielding device to shield merchandise held for resale by a merchant or property of merchant from being detected by an electronic or magnetic theft alarm sensor.

H. Uses, or possesses with intent to use, a theft detection device remover to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant. (Ord. 6305 §1, 2002).

**9.62.030 Detention.** A merchant, a merchant's adult employee, or a merchant's security agent who has reasonable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to his or her parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he or she shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. The merchant, merchant's adult employee, or merchant's security agent may release the detained person before the arrival of a peace officer or parent or guardian. Any merchant, merchant's adult employee, or merchant's security agent who acts in good faith in any act authorized under this section is immune from civil or criminal liability for those acts. (Ord. 6305 §1, 2002).

**9.62.040 Evidence.** Pursuant to s. 66.0107 and s. 943.50(3m)(a), Wis. Stats., in any action or proceeding for violation of this ordinance, duly identified and authenticated photographs of merchandise which was the subject of the violation may be used as evidence in lieu of producing merchandise. (Ord. 6305 §1, 2002).

**9.62.050 Severability.** If any section or part of this ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the validity of the remainder of this ordinance shall not be affected thereby and shall be in full force and effect as if said unlawful section was not originally a part hereof. (Ord. 6305 §1, 2002).

**9.62.060 Penalties.** A. Any adult person violating any section of this ordinance shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00, exclusive of costs, and upon failure to pay the same shall be confined in the county jail for not more than 30 days.

B. Any juvenile person violating any section of this ordinance shall be subject to a forfeiture of \$50.00. (Ord. 6305 §1, 2002).

## **Chapter 9.63**

### **DAMAGE TO PROPERTY**

#### **Sections:**

**9.63.010 Damage to property.**

**9.63.020 Liability.**

**9.63.030 Penalty.**

**9.63.010 Damage to property.** Wisconsin Statutes s. 943.01 regarding damage to property, exclusive of penalty, is hereby adopted by reference and made an offense punishable as a violation of this chapter. (Ord. 6306, 2002).

**9.63.020 Liability.** Any person violating this ordinance shall be liable for the costs of replacing or repairing damaged or destroyed property. The parents of any unemancipated minor child who violates this ordinance may be held liable for the costs of replacing or repairing damaged or destroyed property in accordance with s. 895.035, Wis. Stats. (Ord. 6306, 2002).

**9.63.030 Penalty.** Any adult person violating this ordinance shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00, exclusive of costs, and upon failure to pay the same shall be confined in the county jail for not more than 30 days. (Ord. 6306, 2002).

## **Chapter 9.64**

### **FENCES\***

#### **Sections:**

**9.64.010 Barb wire permitted when.**

**9.64.015 Electric fences.**

**9.64.020 Nuisance, when.**

**9.64.030 Spite fences.**

**9.64.040 Violation--Penalty.**

**9.64.010 Barb wire permitted when.** No owner or occupant of any platted land in the city shall erect, construct or maintain any fence constructed wholly or in part of barb wire, where the barb wire is placed on the outside of such fence, along any public street or alley, or between any lots or parts of lots as a division fence where such lots are used for residential purposes; provided, however, that such barb wire may be placed upon the inside of such fences where smooth wires are placed on the outside and so placed as to protect from injury the clothing and persons of pedestrians and travelers, lawfully being or proceeding on the outside of such fences.

The forgoing shall not apply to any unplatted land in the city which is zoned R-1A under Title 18. (Ord. 5214 §1, 1992; Prior code §20.42).

**9.64.015 Electric fences.** No person shall install or maintain any electrically-charged fence within the city, except within an area which is zoned R-1A under Title 18, where the purpose of such fence is to retain domestic animals, horses or livestock and where such fence is not hazardous to life. (Ord. 5214 §2, 1992).

**9.64.020 Nuisance, when.** Any fence which does not comply with the provisions of ss. 9.64.010 or 9.64.015 is declared to be a public nuisance and may be abated according to law. (Ord. 5214 §3, 1992; Prior code §20.43).

**9.64.030 Spite fences.** Section 844.10 of the Wisconsin Statutes for 1965 is adopted herein and made a part hereof by reference. (Ord. 3808, 1977; Prior code §20.44).

**9.64.040 Violation--Penalty.** Any person, firm or corporation who violates the provisions of this chapter relating to fences shall upon conviction thereof be punished by a fine of not more than one hundred dollars and costs of prosecution and in default of payment thereof shall be imprisoned in the county jail not to exceed thirty days unless the fine and costs are sooner paid. (Prior code §20.45).

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\* For statutory provisions regarding civil actions for fences as private nuisances, see WSA 844.10.

**Chapter 9.68****INJURING PROPERTY--SIDEWALKS\*****Sections:**

- 9.68.010 Wells or other city property.**
- 9.68.020 Buildings, fences and other property.**
- 9.68.030 Enforcing penalty.**
- 9.68.040 Spitting on sidewalks.**
- 9.68.050 Defacing sidewalks.**
- 9.68.060 Violation--Penalty.**

**9.68.010 Wells or other city property.** If any person or persons abuses, injures, beforces or corrupts any of the public wells, cisterns or other public or private property belonging to the city, or any individual, he, she or they so offending shall on conviction thereof be fined in a sum not exceeding one hundred dollars and costs of prosecution. (Prior code §20.26).

**9.68.020 Buildings, fences and other property.** Every person who, within the city, wilfully, maliciously or wantonly injures or damages any church or place of worship, edifice, college, seminary, school house, market house or other house or building or any of the fixtures belonging thereto or breaks the glass of any street lamp, windows or skylight, or extinguishes any lamp, or destroys, removes, throws down or injures any fence or other enclosure on land belonging to or occupied by another, or interferes with any gate or bars in any such enclosure or who enters thereon and dumps or places on such land any substance or material without the consent of the owner of the land, or destroys, injures or carries away any tree or plant, or tears down, mutilates, defaces or injures any building, signboard, fence or railing being the property of another, or who wilfully, maliciously, or wantonly injures, destroys or removes any ornamental or useful tree or plant of any kind, vase, statue, arbor, stand or other building or other guidepost, or who wilfully, maliciously or wantonly injures, defaces or destroys any property not his own, whether real or personal, or whether belonging to any private person or to any private or public corporation shall, upon being convicted of a violation of any of the provisions of this section, be punished by a fine of not less than one dollar nor more than one hundred dollars with the costs of prosecution. (Prior code §20.27).

**9.68.030 Enforcing penalty.** In all cases of conviction for the violation of any of the provisions of Sections 9.68.010 and 9.68.020, if the defendant neglects or refuses to pay the fine and costs imposed, the court shall enter a judgment that the defendant be imprisoned in the county jail for a term not exceeding three months, unless said fine and costs and expenses of prosecution are sooner paid. (Prior code §20.29(part)).

**9.68.040 Spitting on sidewalks.** No person shall spit, expectorate or deposit any sputum, spittle, saliva, phlegm, mucus, tobacco juice or wads of tobacco upon the floors or stairways or any part of a public hall or building, upon the floor or any part of a railroad car or street car, or any other public conveyance, or upon the sidewalks of any public street, avenue or highway in the city. (Prior code §20.30).

**9.68.050 Defacing sidewalks.** It is unlawful for any person to write, print or paint any sign, advertisement or other matter on any sidewalk on any of the public streets or highways in the city. (Prior code §20.31).

**9.68.060 Violation--Penalty.** Any person violating any of the provisions of Sections 9.68.040 and 9.68.050 shall, upon conviction thereof, forfeit not less than one dollar nor more than ten dollars, together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail for Eau Claire County for not to exceed ten days, unless such forfeiture and costs of prosecution are paid sooner. (Prior code §20.32).

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**\*\*** For statutory provisions punishing intentional damage to the property of another without his consent, see WSA 943.01.

**Chapter 9.72**

**BILL POSTING--HANDBILLS**

**Sections:**

**9.72.010 Bill posting.**

**9.72.020 Distributing advertisements.**

**9.72.030 Violation--Penalty.**

**9.72.010 Bill posting.** A. No person shall paste, paint, print, nail or otherwise fasten any handbill, sign, poster, advertisement or notice of any kind whatsoever, or cause the same to be done on any curbstone, flagstone, or any other portion or part of any sidewalk or street, or upon any tree, lamppost, hitching post, telegraph, telephone or lighting pole, hydrant, bridge, pier, or upon any fence or structure on the boundary of or within the limits of any street in the city except such as may be required by the ordinances of the city and the laws of the state, or cause the same to be done upon any private wall, window, door, gate, fence, or upon any other private structure without the consent of the owner of such wall, window, door, fence, gate, advertising board or sign, or other private building or structure.

B. This section shall not apply to notices, warnings or other communications by, or on behalf of, city departments. (Ord. 5860, 1998; Prior code §20.33).

**9.72.020 Distributing advertisements.** No person shall distribute advertisements of any nature, except newspapers and periodical publications, to pedestrians in, or place or fix any such advertisement in or upon any vehicle situated upon, any public street within the city. (Prior code §20.34).

**9.72.030 Violation--Penalty.** Any person who violates Sections 9.72.010--9.72.020 shall upon conviction thereof, for each such violation, be punished by a fine of not less than one dollar nor more than twenty-five dollars besides the costs of prosecution, or in default of payment of such fine and costs, by imprisonment in the county jail of Eau Claire County for not to exceed five days, unless such fine and costs are paid sooner. (Ord. 4072 §6, 1980; Prior code §20.35).

**Chapter 9.74****CAMPING****Sections:****9.74.010 Purpose.****9.74.020 Definitions.****9.74.030 Camping on city property.****9.74.040 Penalty.**

**9.74.010 Purpose.** The city council finds that from time to time persons establish campsites, for the purpose of maintaining a temporary place to live, on sidewalks, public rights-of-way, under bridges, and so forth. Such actions create unsafe and unsanitary living situations which pose a threat to the peace, health or safety of those persons and other citizens of the city. Further, such actions interfere with the rights of others to use those areas for the purposes for which they were intended. (Ord. 5570, 1996).

**9.74.020 Definitions.** In this chapter, the following terms shall mean:

A. "To camp" or "camping" means to set up or to remain in or at a campsite.

B. "Campsite" means any place where any bedding, sleeping bag or other sleeping matter is placed, established or maintained, whether or not such place incorporates the use of any tent, lean-to, shack or any other structure, or any vehicle or part thereof.

C. "City property" means any property which is owned or leased by the city of Eau Claire, including property in which the city of Eau Claire is a land contract vendee, and all municipal easements. (Ord. 5570, 1996).

**9.74.030 Camping on city property.** It is unlawful for any person to camp in or upon any city property, except pursuant to s. 9.76.130, or by declaration by the city manager or city council in emergency or other special circumstances. This shall not be deemed to prohibit camping at designated campsites. (Ord. 5570, 1996).

**9.74.040 Penalty.** Any person violating any provision of this chapter shall, upon conviction, be subject to a forfeiture of not less than \$50 nor more than \$500 for each offense, and upon failure to pay the same shall be confined in the county jail for not more than 30 days. (Ord. 5570, 1996).

**Chapter 9.76**

**PARKS--PUBLIC GROUNDS\***

**Sections:**

- 9.76.010 Driving restrictions.**
- 9.76.020 One-way drives--Designations.**
- 9.76.030 One-way drives--Putnam Drive.**
- 9.76.040 Speed limits.**
- 9.76.050 Traffic signs.**
- 9.76.055 Skateboards, roller skates, roller skis, in-line skates, motor scooters, or similar equipment.**
- 9.76.060 Loitering--Half Moon Beach.**
- 9.76.070 Defacing or removing property.**
- 9.76.080 Parks--Waste containers.**
- 9.76.090 Parks--Ball games.**
- 9.76.100 Parks--Commercial enterprises.**
- 9.76.110 Parks--Hazardous activities prohibited.**
- 9.76.120 Parks--Wildlife.**
- 9.76.130 Parks--Camping.**
- 9.76.140 Parks--Swimming.**
- 9.76.150 Parks--Dogs and horses.**
- 9.76.165 Parks--Intoxicants.**
- 9.76.167 Parks--Hours.**
- 9.76.170 Parks--Assemblies.**
- 9.76.175 City swimming pool--Presence after hours.**
- 9.76.180 Penalties for violation of Sections 9.76.010 through 9.76.175.**
- 9.76.210 Motorized equipment regulations.**
- 9.76.220 Unauthorized presence in school property prohibited.**

**9.76.010 Driving restrictions.** A. Except as otherwise provided in this chapter, it is unlawful for any person to use the drives, avenues and other public ways in the public cemeteries of the city for any purpose except for walking, riding, or driving over and along the same in connection with and as a part of the usual and customary use of such cemeteries or service thereto, and such drives, avenues, streets and public ways of such cemeteries shall not be used as thoroughfares for other foot or vehicular travel through or across the same. Through commercial vehicular traffic on park roads is prohibited.

B. Buffington Drive may, however, be used as a thoroughfare and the maximum speed limit thereon is fixed at twenty-five miles per hour. (Ord. 3336 §II, 1973; prior code §13.04 (a)).

**9.76.020 One-way drives--Designations.** The chief of police may designate any drives or thoroughfares in any park or cemetery in the city for one-way traffic. (Prior code §13.07).

**9.76.030 One-way drives--Putnam Drive.** Putnam Drive traffic shall be from west to east only, beginning on the west, at the bridge over Little Niagara Creek and ending at the west line of the SE ¼ of the SW ¼ of Section 21, Township 27, Range 9. (Prior code §13.04(d)).

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\* For statutory provisions punishing boisterous behavior in public places, see WSA 947.01; for provisions regarding cemeteries, see Ch. 2.84 of this code; for boating regulations, see Ch. 9.24.



**9.76.040 Speed limits.** A. Except as otherwise provided in this chapter, the speed of any vehicle upon the highways, as defined in Section 10.04.020 in the parks and public cemeteries in the city shall not be in excess of fifteen miles per hour.

B. Upon the main highway in Carson Park, extending from the east end of the causeway and to its terminus at Menomonie Street, the maximum speed shall be twenty miles per hour.

C. Upon Putnam Drive within the limits of Putnam Park, the maximum speed shall be fifteen miles per hour.

D. Upon Mount Simon Park Drive, within the limits of Mount Simon Park, the maximum speed shall be 20 miles per hour. (Ord. 5760, 1997; Ord. 3466, 1974; prior code §13.04(b), (c)).

**9.76.050 Traffic signs.** Appropriate signs indicating such speeds and one-way traffic shall be erected on said highways at reasonable intervals. (Prior code §13.04(e)).

**9.76.055 Skateboards, roller skates, roller skis, in-line skates, motor scooters, or similar equipment.** A. It shall be lawful for any person to operate or ride a skateboard, roller skates, roller skis, in-line skates, motor scooters, or similar equipment on the roads, sidewalks and parking lots within Carson Park with the exception of Carson Park Drive and the rampways, sidewalks and stairs that form the entryways to the Carson Park baseball and football stadiums.

B. Operators and riders of the aforesaid equipment shall yield the right of way to other pedestrians and motor vehicles using the roads, sidewalks and parking lots within Carson Park and shall not otherwise endanger or interfere with normal pedestrian or vehicular traffic upon those areas.

C. Operators and riders of the aforesaid equipment shall obey the requirements of §346.80, Wis. Stats., "Riding Bicycles on Roadway," while riding upon the roads within Carson Park. (Ord. 6438 §2, 2003; Ord. 5745 §1, 1997).

**9.76.060 Loitering--Half Moon Beach.** No person, except authorized persons, shall stand, sit, loiter in, or occupy any part of the Half Moon Beach area or the Half Moon Beach area parking lot in the city between the hours of ten p.m. and six a.m. (Ord. 3149 §1, 1970; Prior code §13.05).

**9.76.070 Defacing or removing property.** No person shall destroy, mutilate, injure, carry away or remove any building, fountain or other structure, fence railing, wall, monument, grave stone, tree, shrub, plant or flower within any park, cemetery or public grounds. (Prior code §13.06).

**9.76.080 Parks--Waste containers.** No person shall place or deposit any garbage, trash, rubbish, or other waste in any park or public waters in the city except in containers provided for the purpose. (Ord. 3336 §1(part), 1973; Prior code §13.055(a)).

**9.76.090 Parks--Ball games.** No person shall engage in baseball, football, softball, violent or rough games, or play in any park except in appropriate areas designated therefor by the director of parks and recreation. (Ord. 3336 §1(part), 1973; Prior code §13.055(b)).

**9.76.100 Parks--Commercial enterprises.** A. No person shall sell or offer for sale any article, thing, privilege or service in any park without prior permission of the city council. No person shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in any fermented malt beverage, as defined in Wisconsin Statutes, Section 66.054, in a park, under any circumstances for which a "single event" Class B fermented malt beverage license is required under Wisconsin Statutes Ch. 66.054 (8) (b), and Section 5.28.050 of this code, except as provided herein.

B. Such a license may be granted only for public celebrations or events authorized or sponsored by the city, and only to groups or organizations qualified to hold such license in accordance with state law and local ordinance, subject to the following:

1. No such license shall be issued hereunder without a recommendation thereon having first been filed by the director of parks and recreation and the chief of police;

2. No such license shall be issued for any park other than Carson Park, Lower Mount Simon Park, Riverview Park and Rod and Gun Park; and

3. The licensee shall comply with all terms and conditions imposed upon the issuance of the license by the city council. (Ord. 4044 §1, 1980).

**9.76.110 Parks--Hazardous activities prohibited.** No person shall, in any park, fly a model engine-powered airplane, or shoot an air rifle, firearm, hard ball, such as in golf, except in appropriate areas designated therefor by the director of parks and recreation. (Ord. 3336 §I(part), 1973; Prior code §13.055(d)).

**9.76.120 Parks--Wildlife.** No person shall kill, injure, harm, worry or trap any fur-bearing animal, snake, frog, toad or bird, including water fowl, in any park or within Half Moon Lake or any other navigable water within the city, or destroy, injure or harm the dens, nest or nest contents of said creatures. This section shall not apply to any such activity when undertaken by, or with the permission of, the director of parks and recreation solely for the necessary and proper management of game and wildlife or to protect the parks or other property. (Ord. 3730, 1977; Ord. 3336 §I(part), 1973; Prior code §13.055(e)).

**9.76.130 Parks--Camping.** No person shall establish or maintain any temporary or permanent camp or other lodging place in any park except by prior permission of the city council. (Ord. 3336 §I(part), 1973; Prior code §13.055(f)).

**9.76.140 Parks--Swimming.** No person shall swim in any area other than those designated as public swimming areas and only during such hours as specified. (Ord. 3336 §I(part), 1973; Prior code §13.055(g)).

**9.76.150 Parks--Dogs and horses.** Dogs shall be restrained at all times and shall not be permitted to run at large. Horses shall be permitted only on roadways or pathways in parks designated by the director of parks and recreation for such purpose. (Ord. 3336 §I(part), 1973; Prior code §13.055(h)).

**9.76.165 Parks--Intoxicants.** A. No person shall possess or consume any fermented malt beverage, as defined in Section 125.02(6) of the Wisconsin Statutes, or intoxicating liquor, as defined in Section 125.02(8) of the Wisconsin Statutes, in any park other than Carson Park, Lower Mount Simon Park, Riverview Park, or Rod and Gun Park. The city council may, by resolution, limit or prohibit the possession or consumption of fermented malt beverages or intoxicating liquor within all or any part of Carson Park, Lower Mount Simon Park, Riverview Park or Rod and Gun Park during such times as are specified by the council.

B. No person or group of persons may possess any receptacle containing fermented malt beverages in excess of one gallon in volume in any city park without first securing a permit from the director of parks and recreation or that person's designee. Denial of such a permit may be appealed to the city council. (Ord. 5345, 1993; Ord. 5263, 1992; Ord. 4627 §5, 1986; Ord. 4404 §2, 1980; Ord. 3769, 1977).

**9.76.167 Parks--Hours.** All parks, including all parking lots and park drives therein, excepting public streets, shall remain open daily to the public only between the hours of four a.m. and eleven p.m. of each day, and the director of parks and recreation is authorized to post appropriate signs giving notice thereof. It is unlawful for any person, other than city personnel conducting city business therein, to occupy or be present in a park during the hours the park is not open to the public. Such prohibition shall not apply to athletic facilities, regularly scheduled athletic events authorized and approved by the director of parks and recreation, or to public celebrations or events authorized or sponsored by the city. (Ord. 4044 §3, 1980).

**9.76.170 Parks--Assemblies.** No person shall in any park, conduct himself in such a manner so that the peace and tranquility of others is disturbed due to unreasonable and excessive noise. The director of parks and recreation shall be notified a reasonable period of time in advance by a representative of any group of more than one hundred persons preparing to assemble in any park. (Ord. 3336 §1(part), 1973; Prior code §13.055(j)).

**9.76.175 City swimming pool--Presence after hours.** It shall be unlawful for any person to occupy or be present in the enclosed pool areas of the city swimming pool site during the hours that the facility is closed. Such prohibition does not apply to city employees engaged in city business or to other persons who have the approval of the director of parks and recreation, the pool manager or those persons' designee. (Ord. 5136 §1, 1991).

**9.76.180 Penalties for violation of Sections 9.76.010 through 9.76.175.** Any person violating any of the provisions of Sections 9.76.010 through 9.76.175 shall, upon conviction, forfeit not less than \$20 nor more than \$500, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail for Eau Claire County until said forfeiture and costs are paid, but not to exceed ninety days. (Ord. 5136 §2, 1991; Prior code §13.071).



**9.76.210 Motorized equipment regulations.** In all parks, cemeteries and other public lands and facilities, all motor vehicles, including motorcycles, motor-driven cycles and motor bicycles, shall be operated only upon the roadway or in other areas therein specifically designated for such operation by the city official in charge of such public land and facility and such operation shall be in compliance with appropriate regulations established by said official for such operation, and no person shall operate such vehicle in a manner as to create unreasonable or excessive noise or as to cause injury or damage to the public land or facility. Any person who violates this section shall, upon conviction thereof, forfeit not less than five dollars nor more than one hundred dollars, together with the costs of prosecution. (Ord. 4072 §7, 1980; Ord. 3336 §III, 1973; Prior code §13.074).

**9.76.220 Unauthorized presence on school property prohibited.** It is unlawful for any student who is enrolled in a school under the jurisdiction of the Eau Claire Area School District, or for any person, not an employee of the Eau Claire Area School District, or a parent or a guardian of a student enrolled, or not an otherwise authorized person to remain, loiter, or idle during scheduled school hours within any school building or upon any school grounds under the jurisdiction of the Eau Claire Area School District without having first secured authorization to be there from the principal or other person in charge of the school buildings or school grounds, except while in direct route to secure the authorization. "Authorized person" includes any person who is present at any school building or any school grounds for any purpose authorized by the Board of Education or its designee. (Ord. 4063 §2, 1980).

## **Chapter 9.77**

### **FRAUD ON RESIDENTIAL LANDLORDS**

#### **Sections:**

**9.77.010 Unlawful acts.**

**9.77.020 Applicability.**

**9.77.030 Penalty.**

**9.77.010 Unlawful acts.** Any tenant who, with intent to defraud, commits either of the following acts, shall be penalized as provided in section 9.77.030:

A. Intentionally absconds without paying rent that has been contractually agreed upon in an oral or written lease with a landlord. Prima facie evidence of intentionally absconding will be established if a tenant fails to pay rent due prior to the vacating of the rental premise by the tenant, and the non-payment of said rent continues for a period of 5 days after vacation of the premise; or

B. Issues any check, money order or any other form of bank or monetary draft as a payment of rent, where such document lacks sufficient funds, where the account is closed, or where such draft is unredeemable in any other form or fashion. (Ord. 4817 §1, 1988).

**9.77.020 Applicability.** This chapter shall apply to rental agreements between residential landlords and tenants only. The words and terms used in this chapter shall be defined and construed in conformity with the provisions of Chapter AG 134, Wisconsin Administrative Code, Chapter 704, Wisconsin Statutes, and Section 990.001(2) of the Wisconsin Statutes. (Ord. 4817 §2, 1988).

**9.77.030 Penalty.** Any person who violates any of the provisions of this chapter shall be subject to a forfeiture of not less than \$25 nor more than \$500, plus the costs of prosecution, and in default of the payment thereof, shall be imprisoned in the county jail until such forfeitures and costs are paid, but not to exceed a term of 30 days. (Ord. 4817 §3, 1988).

## **Chapter 9.78**

### **OBTAINING UTILITY SERVICE BY FRAUD**

#### **Sections:**

**9.78.010 Unlawful acts designated.**

**9.78.020 Applicability.**

**9.78.030 Penalty.**

**9.78.010 Unlawful acts designated.** Whoever, with intent to defraud, obtains or attempts to obtain telecommunication service, cable television service, gas service, sewer service or water service by any of the following means may be penalized as provided in Section 9.78.030:

A. Rearranging, tampering with or making connections with any facilities or equipment;

B. Using any contrivance, device or means to avoid payment of the lawful charges, in whole or in part, for such service;

C. Charging such service to an existing subscriber without the consent of the subscriber thereto, or the legitimate holder thereof. (Ord. 3552 (part), 1975).

**9.78.020 Applicability.** This chapter shall apply when the said services either originate or terminate, or both, in this city, or when the charges for said services would have been billable, in normal course, by a person providing the said services in this city but for the fact said services were obtained, or attempted to be obtained, by one or more of the means set forth in Section 9.78.010 above. (Ord. 3552 (part), 1975).

**9.78.030 Penalty.** Violators of this chapter shall be subject to a fine of not less than twenty dollars and the costs of the action and not more than one hundred dollars and the costs of the action for the first offense; and not less than twenty dollars and the costs of the action and not more than two hundred dollars and the costs of the action for each and every subsequent offense; and in the event of failure to pay such costs and fines, the violator shall be committed to the county jail for a period not to exceed thirty days or until such costs and fines are paid. (Ord. 3552 (part), 1975).

**Chapter 9.79****TAXICABS AND MOTOR BUSES****Sections:****9.79.010 Failure to pay fare.**

**9.79.010 Failure to pay fare.** Any person who engages a vehicle for hire, as contained in Chapter 5.54, or who boards a city transit bus or other motor bus for hire and fails to pay the required fare shall be subject to a forfeiture of not less than \$25 nor more than \$100. (Ord. 4553 §1, 1985).

**VII. CONSUMER PROTECTION****Chapter 9.80****FALSE WEIGHTS AND MEASURES\*****Sections:****9.80.010 Prohibited.****9.80.020 Violation--Penalty.**

**9.80.010 Prohibited.** A. No person shall sell, or offer for sale within the city any fruit, vegetables, berries, or grain of any description, or any article of dry measurement, or any ice, coal or any other goods, wares, merchandise, commodity or produce, without first having correctly weighed or measured the same, in the amount ordered or purchased by the buyer.

B. No person shall sell, offer for sale or give away within the city any measure or measures unless the same shall have been tested and sealed by the sealer of weights and measures. (Prior code §11.13).

**9.80.020 Violation--Penalty.** Any person who violates any of the provisions of this chapter, or who uses or has in his possession any false or condemned measure or measures, or any weighing machine which does not balance, or any measure or measures which have not been sealed within one year; or any person who sells or offers to sell any measure which has not been sealed by the sealer of weights and measures; or any person who is guilty of giving false or insufficient weight or measure of commodities, or of taking false or over weight or measure of commodities when in the custom of trade the buyer or his agent does the weighing or measuring, or of selling commodities in a manner contrary to law, shall, upon conviction thereof, be punished by a fine of not less than twenty dollars nor more than one hundred dollars for each offense, together with the costs of prosecution, and in default of payment of such fine and costs of prosecution, shall be imprisoned in the county jail for Eau Claire County for not to exceed three months, unless such fine and costs are sooner paid. The possession of any false, unsealed or condemned measure or measures or packages of false or insufficient weight or measure shall be prima facie evidence that the same was intended to be used or sold in violation of this act. The penalty imposed shall be in addition to any other liability imposed by law. (Prior code §11.14(a)).

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\* For statutory provisions regarding weights and measures generally, see WSA 98.01 et seq.; for provisions punishing the use of false weights and measures, see WSA 98.25 and 98.26.

## **Chapter 9.82**

### **LIBRARY**

#### **Sections:**

**9.82.010 Theft of library material.**

**9.82.020 Failure to return library materials; removal of materials.**

**9.82.025 Unauthorized or fraudulent access to library services.**

**9.82.027 Unauthorized presence in library.**

**9.82.030 Penalty.**

**9.82.010 Theft of library material.** A. In this chapter:

1. "Archives" means a place in which public or institutional records are systematically preserved.

2. "Library" means any public library; library of an educational, historical or eleemosynary institution, organization or society; archives; or museum.

3. "Library material" includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belonging to, on loan to or otherwise in the custody of a library.

B. Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be penalized as provided in Section 9.82.030.

C. The concealment of library material beyond the last station for borrowing library of possession of the material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of the person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material. (Ord. 4142 (part), 1980).

**9.82.020 Failure to return library materials; removal of materials.** A. No person shall fail, on demand, to return any library material belonging to or in the charge of the L. E. Phillips Memorial Public Library, (hereinafter referred to as library), or any of its branches according to the rules and regulations duly made and adopted by the library board, and no person shall remove from the library or any of its branches any library material without first having it charged as provided by such rules and regulations.

B. No person shall mar, deface, or in any other way damage or mutilate any library material belonging to or in the charge of the library, or any of its branches. (Ord. 4142 (part), 1980).

**9.82.025 Unauthorized or fraudulent access to library services.** Any person who is ineligible for a library card shall be prohibited from fraudulently using the library card of another person for the purpose of borrowing any library material or utilizing any library service, and no person possessing a valid library card shall permit its use for any such purpose. No person shall make or file any false statement or information for the purpose of fraudulently obtaining a library card. (Ord. 4329, 1983).

**9.82.027 Unauthorized presence in library.** No person who has been excluded by the library board from the use of the library pursuant to the provisions of s. 43.52(2), Wisconsin Statutes, or successor statute, may enter upon the library premises from which the person has been excluded during the period of exclusion. (Ord. 5577 §2, 1996).



**9.82.030 Penalty.** Any person convicted of a violation of the provisions of this chapter shall forfeit not more than three hundred dollars and the costs of prosecution, and in default of payment of such forfeiture and the costs of prosecution, shall be imprisoned in the County Jail until payment of such forfeiture and costs of prosecution are paid, but not for more than ninety days. Where there is more than one book, periodical, pamphlet, picture or other article or property involved in any violation, each such item shall constitute a separate offense. (Ord. 4142 (part), 1980).

## **VIII. OFFENSES BY OR AGAINST JUVENILES**

### **Chapter 9.84**

#### **OFFENSES**

#### **Sections:**

**9.84.010 Hours prohibited in public.**

**9.84.040 Jurisdiction.**

**9.84.045 Truancy.**

**9.84.050 Alcohol beverages and juveniles.**

**9.84.055 Restrictions on purchase or possession of cigarettes or tobacco products.**

**9.84.060 Vandalism.**

**9.84.070 Loitering on school property.**

**9.84.080 Penalty.**

**9.84.010 Hours prohibited in public.** A. Purpose. The city council recognizes that a significant amount of youth-perpetrated crimes occur within the city of Eau Claire during curfew hours. It is also recognized that many crimes against youth occur during curfew hours. This section is intended to protect the health, safety, and welfare of minors without impeding on their or their parents' fundamental rights.

B. Definitions. As used in this section:

1. "Minor" is anyone who is under seventeen (17) years of age who is not judicially emancipated or married.

2. "Public place" means any place to which the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, malls, and shops.

3. "Business establishment" means any privately owned place of business to which the public is invited, including, but not limited to, any place of amusement or entertainment.

4. "Parent" refers to a natural parent, adoptive parent, stepparent, guardian, or any person who is at least eighteen (18) years of age and authorized by the parent or guardian to have care and custody of a minor.

5. "Curfew hours" are from 12:00 midnight to 5:00 a. m.

C. Offenses.

1. It shall be unlawful for a minor to remain in a public place, motor vehicle, or business establishment during curfew hours.

2. It shall be unlawful for any owner, operator, or employee of a business establishment to knowingly allow minors, unless accompanied by a parent as defined in this section or participating in an exempted activity, to remain in such establishment during curfew hours, unless the minor refuses to leave and the police are notified.

3. It shall be unlawful for any parent to knowingly, or by lack of reasonable supervision and control, allow a minor to remain in any public place or business establishment during curfew hours unless the activity is excepted below.

- D. Exceptions to enforcement. The curfew does not apply in the following situations:
1. When a minor is accompanied by a parent;
  2. When a minor is engaged in First Amendment activity protected by the United States Supreme Court or the Wisconsin Supreme Court;
  3. When a minor is traveling to or from an activity related to the minor's employment;
  4. When a minor is on direct route from any government or school function;
  5. When a minor is on a sidewalk adjacent to the property where the minor resides; and
  6. When a minor is involved in an emergency which involves the protection of a person or property from an imminent threat of serious bodily injury or substantial damage. (Ord. 6625, 2005; Ord. 5685 §2, 1997; Ord. 5154, 1991; Ord. 5033 §1, 1990; Prior code §20.10(a)).

**9.84.040 Jurisdiction.** The Eau Claire County Circuit Court--Children's Division shall have jurisdiction in proceedings against juveniles between the ages of 12 and 16 years for violations of this chapter or other violations of this code. In such cases, the citation procedures described in the Wisconsin Statutes Section 938.237 may be used. If a citation is issued to a juvenile, the issuing agency shall within seven days notify the juvenile's parent or guardian. The agency issuing a citation to a juvenile who is 12 to 15 years of age shall send a copy to an intake worker under Wisconsin Statutes Section 938.17(2)(c) for informational purposes only. If the court finds that a juvenile violated a municipal ordinance or civil law punishable by forfeiture, the court shall enter a dispositional order under Wisconsin Statutes Section 938.344, if applicable, or if that section does not apply, the court may enter any of the dispositional orders under Wisconsin Statutes Section 938.343. (Ord. 5685 §3, 1997; Ord. 5422 §1, 1994; Ord. 4485 §1, 1984; Ord. 4154 §1, 1981; Ord. 4127 §1, 1980; Ord. 4013 §1, 1979).

**9.84.045 Truancy.** No child under the age of 18 years who is subject to school attendance laws shall be truant as defined in this section.

A. Definitions. In this section:

1. Acceptable excuse means permission of the parent/guardian/legal custodian of a pupil, within limits of policies on truancy established by the school in which the pupil is enrolled. Except in emergencies or unforeseeable circumstances, such permission is expected to be communicated in writing from the parent/guardian/legal custodian to the school, prior to the absence. In emergencies or unforeseeable circumstances, such communication is expected to be as soon as practicable following the absence.

2. Truant means a pupil who is absent from school without an acceptable excuse under Wisconsin Statutes s. 118.15 and 118.16(4) for part or all of any day on which school is held during a school semester.

B. Penalties. Any child violating this section shall be subject to one or more of the penalties provided in subsections 1. and 2. below:

1. An order for the child to attend school;
2. A forfeiture of not more than \$50.00 plus costs for a first violation, or a forfeiture of not more than \$100.00 plus costs for a second or subsequent violation committed within 12 months of a previous violation, subject to Wisconsin Statutes s. 938.37, and subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester.

C. Sanctions for violation of the court's order. If the court finds that a child violates a condition of his or her court order under this section, the court may impose as a sanction on the child, any combination of the following, if at the time of the order the court explained the conditions to the child and informed the child of those possible sanctions:



1. Suspend the child's operating privilege, as defined in Wis. Stat. §340.01(40), for not more than one year. If the child does not hold a valid operator's license under Wis. Stat. ch. 343, other than an instruction permit under Wis. Stat. §343.07 or a restricted license under Wis. Stat. §343.08, on the date of the order issued under this section, the court may order the suspension or limitation to begin on the date that the operator's license would otherwise be reinstated or issued after the child applies and qualifies for issuance, or 2 years after the date of the order issued under this section, whichever occurs first. If the court suspends the child's operating privilege or an approval issued under Wis. Stat. ch. 29, the court shall immediately take possession of the suspended license or approval and forward it to the department that issued the license or approval with a notice stating the reason for and the duration of the suspension.

2. An order for the child to participate in counseling or a supervised work program or other community service work as described in Wis. Stat. §938.34(5g).

3. An order for the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a child to leave his or her home if the child is accompanied by a parent or guardian.

4. An order for the child to attend an education program as described in Wis. Stat. §938.34(7d).

5. An order for the department of workforce development to revoke, under Wis. Stat. §103.72, a permit under Wis. Stat. §103.70, authorizing employment of the child.

6. An order for the child to be placed in a teen court program as described in Wis. Stat. §938.342(1g)(f).

7. An order for the child to attend school.

8. A forfeiture of not more than \$500 plus costs, subject to Wis. Stat. §938.37.

9. Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises, and restrictions on associating with other children or adults.

D. Parental liability. All or part of any forfeiture or costs assessed under this section may be assessed against the child, the child's parents, the child's guardian, or the child's legal custodian, or any combination thereof. Further, the court may order the child's parent, guardian, or legal custodian to participate in counseling at the parent's, guardian's, or legal custodian's own expense, or to attend school with the child, or both.

E. Contributing to truancy.

1. Except as provided in subsection 2., no person 17 years of age or older shall, by act or omission, knowingly encourage or contribute to the truancy of a person subject to school attendance laws.

2. Subsection 1. does not apply to a person who has under his or her control a child who has been sanctioned under Wis. Stat. §49.26(1)(h).

3. An act or omission contributes to a truancy of a child whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be truant.

F. References to statutes. References to specific statutory sections, wherever used in this ordinance, shall mean the Wisconsin Statutes of 2000-2001 as from time to time amended, modified, repealed, or otherwise altered by state legislature.

G. Severability. If any section or part of this ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. (Ord. 6213, 2001; Ord. 5896, 1998).



**9.84.050 Alcohol beverages and juveniles.** A. It is unlawful for any juvenile between the ages of 12 and 16 years, inclusive, to:

1. Procure or attempt to procure alcohol beverages
2. Knowingly possess or consume intoxicating liquor;
3. Enter or be present on any premise licensed under Chapter 125 of the Wisconsin Statutes;
4. Falsely represent his or her age for the purpose of receiving alcohol beverages from a licensee or permittee;
5. Possess or consume fermented malt beverages when not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age;
6. Violate any other applicable section of Chapter 125 of the Wisconsin Statutes.

B. Any violation of Section 9.84.050 shall be subject to the penalties provided in Section 938.344 of the Wisconsin Statutes. (Ord. 5685 §4, 1997; Ord. 5422 §2, 1994; Ord. 4485 §2, 1984; Ord. 4154 §2, 1981; Ord. 4127 §2, 1980; Ord. 4013 §2, 1979).

**9.84.055 Restrictions on purchase or possession of cigarettes or tobacco products.** Section 254.92 of the Wisconsin Statutes is adopted by reference and made a part of this chapter as if fully set forth herein. (Ord. 6162, 2001; Ord. 5835, 1998; Ord. 5289 §3, 1992; Ord. 5028, 1990).

**9.84.060 Vandalism.** No juvenile 12 years old or older shall intentionally cause damage to any physical property of another individual without that person's consent. (Ord. 5422 §3, 1994; Ord. 4127 §3, 1980; Ord. 4013 §3, 1979).

**9.84.070 Loitering on school property.** No juvenile 12 years old or older, after first being warned by a law enforcement officer or a school official, shall remain, loiter, or idle on public school grounds during scheduled school hours. This section shall not apply to students who have obtained special permission from school officials in accordance with the school's rules and regulations. (Ord. 5422 §4, 1994; Ord. 4127 §4, 1980; Ord. 4013 §4, 1979).

**9.84.080 Penalty.** Violators of Sections 9.84.010, 9.84.055, 9.84.060, 9.84.070 and 9.84.075 shall, upon conviction, forfeit an amount of \$50.00. (Ord. 5422 §6, 1994; Ord. 5289 §4, 1992; Ord. 4485 §3, 1984; Ord. 4367 §3, 1983; Ord. 4072 §3, 1980).

## IX. MISCELLANEOUS PROVISIONS

### Chapter 9.88

#### EMERGENCY POWERS

#### **Sections:**

**9.88.010 City manager--Emergency proclamation.**

**9.88.020 Proclamation--When effective.**

**9.88.030 Immediate emergency--Police power.**

**9.88.040 City council review.**

**9.88.050 Penalty.**

**9.88.060 Effect on other ordinances.**

**9.88.010 City manager--Emergency proclamation.** Whenever, in the judgment of the city manager, or in the event of his absence or inability to act, the acting city manager, determined that an actual or imminent emergency exists by reason of war, conflagration, natural or manmade catastrophe or disaster, riot or civil commotion, including conditions, without limitation due to enumeration, which impair transportation, food or fuel supplies, medical care, fire, health or police protection or other vital services of the city, he may, by proclamation, do any or all of the following:

A. Impose a curfew upon all or any portion of the city, thereby requiring all persons in such designated curfew areas to remove themselves forthwith from the public streets, alleys, parks or other public places. Physicians, nurses and ambulance operators performing medical services, bona fide members of the news media, personnel of public utilities maintaining essential public services and firemen and city authorized or requested law enforcement officers and personnel may be exempted from such curfew;

B. Order the closing of any business establishments anywhere within the city for the period of the emergency, such as businesses to include, without limitation due to enumeration, those selling intoxicating liquor, fermented malt beverages, gasoline or firearms;

C. Declare any public street, thoroughfare or vehicle parking areas closed to vehicular or pedestrian traffic;

D. Call upon regular and auxiliary law enforcement agencies and organizations within or without the city to assist in preserving and keeping peace and order within the city.

E. Prohibit the kindling or maintaining of any outdoor fire, including the usage of outdoor grills, smoking as defined in s. 9.38.010 (intro. par.), or the discharge of those fireworks as described in s. 9.32.010, including those materials permitted therein under s. 9.32.010 A. through N., where such activity is found to be hazardous due to weather conditions or other similar circumstances. (Ord. 4840 §3, 1988; Ord. 3622 (part), 1976).

**9.88.020 Proclamation--When effective.** The proclamation of emergency under Section 9.88.010 shall be effective upon its issuance and dissemination to the public by appropriate news media or other means of informing the public, such as informing the group that is being affected by the order through use of a loudspeaker system. (Ord. 3622 (part), 1976).

**9.88.030 Immediate emergency--Police power.** If, because of the immediacy of an emergency, there is not time in which to contact the city manager or acting city manager, the chief of police or acting chief of police shall have the authority to take the steps enumerated in subsections A, B, C or D of Section 9.88.010, and shall, as soon as possible thereafter, contact the city manager or acting city manager. The city manager or acting city manager shall have power to ratify, alter, modify, or repeal any order given by the chief of police or acting chief of police, but such ratification, alteration, modification or repeal shall not affect the prior validity or force or effect of the proclamation of emergency by the chief of police or acting chief of police. (Ord. 3622 (part), 1976).

**9.88.040 City council review.** Such proclamation by the city manager or acting city manager shall be subject to ratification, alteration, modification or repeal by the city council as soon as the city council is able to meet, but such ratification, alteration, modification or repeal shall not affect the prior validity or force or effect of such proclamation or emergency by the city manager. Such proclamation of emergency shall be in effect until the city manager proclaims an emergency no longer exists or until the city council, by ordinance or resolution, declares such emergency no longer exists, whichever occurs first. (Ord. 3622 (part), 1976).

**9.88.050 Penalty.** Any person who wilfully fails or refuses to comply with any lawful order or duly authorized law enforcement officers or personnel charged with the enforcement of such proclamation of emergency shall be subject to a forfeiture of not more than five hundred dollars for each offense. (Ord. 3622 (part), 1976).

**9.88.060 Effect on other ordinances.** The ordinance codified in this chapter shall supersede all other provisions of this code in conflict with this chapter. (Ord. 3622 (part), 1976).